Social and legal aspects of the development of civil society institutions. Part II

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SOCIAL AND LEGAL ASPECTS OF THE DEVELOPMENT OF CIVIL SOCIETY INSTITUTIONS

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Part II

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This collective monograph offers the description and analysis of the formation and development of civil society institutions at various levels of government in the field of politics, economics, education and culture. The authors of individual chapters have chosen such point of view for the topic which they considered as the most important and specific for their field of study. Theoretical and applied problems and the existing legal base of practical activities of civil society institutions in the context of growing interdependence of economic, cultural, demographic, political, environmental processes are investigated. The prospects for the further development of civil society and its institutions, their relations with the state, as well as the promotion of the participation of civil society organizations in socio-economic development.

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CONTENTS

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PUBLIC-PRIVATE PARTNERSHIP IN THE SOCIAL SPHERE AND FORMATION OF SOCIAL CAPITAL

Abstract*. The article is devoted to the scientific and theoretical substantiation of the methodical bases and practical recommendations for the improving the mechanism of regulation of public-private partnership (PPP) in the social sphere of the (Ukrainian) national economy. The object of research is the process of regulation, theoretical and methodological provisions, practical aspects of the application of the PPP' mechanism of regulation in the social sphere of the national and regional levels of the economy. Research is devoted to the study of the phenomenon of the social capital (SC) as an economic phenomenon also. The author's definition of the SC is given, the sources of its formation are investigated, the approaches to the formation mechanisms of the potential of the SC at different levels of the national economy are developed, a set of the SC produced by the direct and indirect effects is investigated. The theoretical foundations of quantifying the value of the SC are laid.*

JEL Classification: H420; D230

Introduction.

The main guarantee of the dynamic development of the modern economy is the innovative mobility of human capital, the constant reproduction of employees' ability to continuous and long-term professional growth, the expansion of the potential for the implementation of creative knowledge in everyday practical activities, the generation of high personal and group competitiveness on this basis. Realization of the modern model of economic growth becomes possible for purposeful creation in the social sphere of life of the society of real conditions to go beyond the scope of satisfaction of primary needs, focusing attention on secondary, social-group, prestigious, spiritual, socio-social requests, and aspiration for creative self-expression.

Socio-economic realities of modern Ukraine, which are largely shaped by the processes of integration into the European practice of free flow of human resources, capital, goods and services, today have mostly negative social consequences. Massive movement abroad of the most active and professionally prepared part of human resources, due to this narrowing of the material basis of the formation of human capital of the nation, falling levels of quality of satisfaction of spiritual, cultural, recreational demands of the population, require the speedy overcoming the attitude towards the social sphere as a derivative of the subsystem of industrial society, transformation It is a driving element of economic development, which is associated with the continuous innovation of the reproduction of social process. It becomes apparent that even maintaining the standards of functioning of the social sphere at an unchanged level is impossible solely on the basis of financing from the state and local budgets. Expansion of the list and generation of new social needs and increase of the quality of their satisfaction involves the use of public-private partnership (PPP) projects as effective models of integration of capital and organizational resources of public sector entities and the public sector of the public sector of the mixed economy on the basis of self-organization and self-governance using innovative approaches.

Paying tribute to the significant achievements in the study of current scientific issues, one should admit that regulation of the social sphere is a complex process and in a methodologically inadequate way. Strategic orientation towards the innovative standards of project implementation is the basis of theoretical and methodological comprehension and stipulate the necessity of developing an effective mechanism for regulating PPP in the social sphere. This is determined by the choice of first and second part of publication, the purpose and tasks, structure and content. Another related to the previous issue aim of this publication is the definition of the nature of the SC – active system of relations between the economic entities, which directly contributes to increasing income, quality of life, the creation of public goods at various levels of the national economy, the factors of its formation, the mechanism of the implementation and the identification of the effects of exposure.

1. Theoretical, methodological and practical foundations of regulation of public-private partnership in the social sphere of economy

In order to deepen theoretical, methodological and practical foundations of regulation of PPP in the social sphere of economy we have set the following tasks:

− to generalize theoretical and methodological principles for identifying the essence of the concept of “PPP in the social sphere of the economy”;

− to determine the peculiarities of the forms and models of regulation of the social sphere of the economy by means of PPP;

− to carry out a comparative analysis of international practice, to analyze the effectiveness of regulation of the social sphere by means of PPP at macro and mesoeconomic levels.

The content analysis of the theoretical foundations for regulation of the social sphere of life of localized elements of the post-industrial economy provided an opportunity to formulate the definition of its essence as a virtual quasi-corporate association of elements of social and social and socio-cultural infrastructure of the information-technological and humanitarian-service sectors of the economy, which are included in the material and material the environment of a regional innovation system in order to recreate the individual as a social being.

Regulation of social sphere is carried out by means of influence on the relations of institutional actors – stakeholders of local innovation systems – with the purpose of providing them with socially significant benefits, the final consumption of which takes place at the level of households. If in the course of regulation, it becomes necessary to temporarily combine the resources of the community, private business, owners of alternative sources of financing of the partnership fund under the machinery of the aggregator (in the person of the executive authorities), then in the conditions of the post-industrial economy it is carried out in the form of PPP.

Thus, PPP in the social sphere should be understood as a process of pooling resources of the state and municipal sectors, the public sphere of the public sector of the mixed national economy, balancing interests, finding a socio-economic compromise between institutional partners for solving the tasks of demonopolization of social infrastructure providing guaranteed and provision of obligatory social services provided by the state, involvement of non-state structures in the selective provision of regulated mixed public goods for collective use.

The regulation of PPP is a key direction of introducing a system of measures of administrative influence of executive bodies on a complex of partner business relations between representatives of the authorities, business, public sector of society, local communities on the redistribution of powers in the field of the formation of innovative infrastructure of collective use, production of socially significant goods and services that are currently in the state monopoly [1]. The regulation provides for the authorities to adjust the wide range of questions of transfer of responsibility, avoidance of critical risks, effective financial support, practical implementation, involvement in the management and distribution of profits of stakeholders of regional innovation systems on the principles of equality, openness, non-discrimination, adversity, ensuring integral efficiency, minimizing risks and costs.

We consider it expedient to carry out the definition the essence of the mechanism of regulation of PPP in the social sphere of the economy as an ordered system of measures of regulation and regulatory influence on the complex of mutually beneficial relations between regional stakeholders on issues of redistribution of powers, which at the moment are carried out mainly by state institutions [2].

On the basis of the implementation of a systematic approach to the analysis of options for institutional partnership regulation in the social sphere, a generalization of international practice of applying traditional forms of cooperation between stakeholders of regional innovation systems, their symbiosis with the possibilities of introducing creative forms of inter-institutional partnership was made.

Investigating the international practice of regulation of the social sphere, combined with global industrial-logistic and information networks of regional innovation systems in the conditions of the emergence of the post-industrial economy, has allowed to substantiate the conclusions about practical non-alternative to the application of models of PPP in the field of provision of public goods of collective use. At the same time, full and high-quality satisfaction of demand for services of individual design by means of partnership cooperation is carried out within the framework of realization of the national innovation model of regulation of social sphere at the regional level [3].

It is established that the complex use of the mechanism of regulation of PPP in the social sphere takes place at the level of regional innovation systems – virtual cluster-network structures in the mid-market environment, the purpose of which is the permanent generation of goods and services of social orientation.

The analysis of public-private partnership models that are associated with the national peculiarities of the implementation of the processes of supply of goods/ services and contract management, the preparation of objects for turnkey operation, leasing, concessions, private financial initiatives, has made it possible to distinguish their key components elements that involve taking into account the objects of the purpose of use, functions, principles, methods, techniques, tools and forms that are collectively relied upon as a methodological basis for the development of an authority the economic and economic mechanism of regulation of the social sphere, the formation of a high quality social environment, ultimately – the quality of life in the conditions of the emergence of post-industrial economy. The main means of regulating regional innovation systems are flexible local coordination within the framework of functioning of global markets, ensuring strategic interaction of independent working groups of stakeholders with a significant role of informal ties, personal contacts within the technological platforms.

It is proved that despite the identity of prototype models of network partnership structures with similar to industrial and infrastructure projects of the real sector of the economy, they have a special status in the social sphere. It relates to the humanist orientation of cooperation, the willingness to “soft” expansion of positive experience, focus on stability, efficiency, ensuring the competitiveness of a holistic activity environment.

A comparative analysis of the practice of implementing public-private partnership projects around the world has shown that in general, the social sphere is considered by the state regulatory bodies as a system-forming framework for the functioning of globalized regional innovation systems.

It was stated that insignificant volumes and low level of efficiency of mixed investment in the development of social complexes of innovative systems with the involvement of institutional actors negatively affect Ukraine's position in international rankings, characterizing its economy as a transitional one (Table 1).

Table 1. International indices and ratings that take into account the effectiveness of public-private partnership regulation in the social sphere of Ukraine

Source	Index	Indicator Value	Year
Doing Business	Ease of doing business	76/80 from 190	2018/2017
National Brands	National brands	59/68 from 100	2016/2015
Legatum Prosperity	Prosperity	112 from 149	2017
Global Competitiveness Index	Global Competitiveness	81 from 137	2016
Social Progress Index	Social Development	64 from 146	2018
Human Development Index	Human development	84 from 188	2016
Global Innovation Index	Global Innovation	43/50 from 126	2018/2017
Inclusive Development Index	Inclusive development	49 from 74	2018
Index of Economic Freedom	Economic freedom	48,1/51,9 from 100	2018/2017
Democracy Index	Democracy	83/86 from 167	2017/2016

It was established that the level of effectiveness of regulation of PPP varies considerably in the context of the components of social infrastructure by regions of Ukraine. The conducted complex rating estimation allowed to determine the most problematic components of social infrastructure in the territorial dimension and strategic guidelines aimed at ensuring socio-economic development of the regions in the long run.

During 2010-2017 actual social spending expenditures as a part of total expenditures of the budget system of Ukraine increased from UAH 240.6 billion to UAH 617.6 billion. The share of local budgets, due to the structural reformation of their administrators, increased from 35.5% to 65.9%. Nevertheless, the peculiarity of regulation of PPP in the social sphere remains the provision mainly from the central budget, small amounts of private capital attraction, “direct payments from households”, lack of insurance funds and a mandatory system of accumulation of funds for innovation purposes development. This not only substantially reduces the scope of partnership relations in the current period but makes it impossible to move to a PPP in the future.

Thus, summing up the study of theoretical, methodological and practical foundations of regulation of public-private partnership in the social sphere of economy, we assert that we have achieved the following results:

− improved theoretical provisions on the definition of the essence of the concept of “PPP in the social sphere of the economy”, which, unlike the existing ones, is considered as an effective model of a project association of financial and institutional resources of stakeholders, in which the satisfaction of an expanded range of social needs of the population and improving the quality level of their satisfaction by increasing the production of goods and providing social services as a material condition for the reproduction of the ability of each individual person for a long time to act as a creative element of innovative

systems, flexible consideration of the peculiarities of functioning of the humanitarian service sector of the post-industrial knowledge economy, which results in improved quality of human resources and qualifications of the work force, effective social dialogue in society, reduction of migration, quality of life, growth the competitiveness of business structures and the amount of deductions to budgets of all levels;

− improved systematization of national models of PPP in the humanitarian sphere of the liberal, paternalistic, egalitarian, social-market types of national social policy on the basis of a set of signs of willingness to use traditional and generating innovative patterns of partnership, which, in contrast to common approaches, provides for the full consideration of the degree of state participation in implementing the principles of social policy, the level of industrial development of the national economy, the nature of the relationship between the social and economic policies of the state, the ratio of the processes of integration and fragmentation of social protection, the level of involvement of stakeholders, taking into account all possible self-governing combinations of options for securing the commercial interests of asset owners, sources of investment, risk carriers;

− improved methodological provisions on the application of the results of the rating integrated assessment of the effectiveness of the regulation of PPP at the mesoeconomic level, which, unlike current approaches, allows for the formation of a profile of each region in terms of the components of social infrastructure (education, health, culture, sport and tourism, social security, housing and communal services, transport infrastructure and communications, trade, food and household services) differentiated as the current needs for addressing the urgent needs of the territories and strategic priorities of their development, aimed at improving the quality of life of the population of the regions and the growth of the competitiveness of the economy in the long run.

2. Organizational and methodological support for improving the efficiency of the mechanism of regulation of public-private partnership in the social sphere

In order to resolve the issue of organizational and methodological support for improving the efficiency of the mechanism of regulation of public-private partnership in the social sphere we have set the following tasks:

− to propose strategic guidelines for improving the efficiency of PPP regulation in the social sphere in Ukraine;

− to identify ways of modernizing the mechanism of regulation of PPP in the social sphere of the economy;

− to develop proposals on the use of PPP in the process of realization of social projects of regional innovative ecosystems;

− to improve the system of indicators of monitoring oin conditions of expansion of participation of institutional stakeholders in it.

The strategic direction of increasing the effectiveness of social sphere regulation is the implementation of modernized requirements in the structure of elements of the mechanism of regulation of PPP of modernized requirements, which is shaped by the peculiarities of the realities of participation in the formation of global value chains as the material basis of social development that occurs in parallel with processes of localization of processes provision of individualized socially meaningful services in "custom design" operation within glocal (globally localized) innovative ecosystems.

The strategic directions of using the mechanism of regulation of PPP in the social sphere, provide for its constant updating in order to implement the elements of regulation of modernized requirements, the formation of which takes place taking into account the trajectories of the deployment of innovative social technologies. State regulation of the innovative development of public administration involves the introduction of institutional, structural, legal, innovation-technological, scientific and intellectual decisions that relate to organizational, conceptual innovations, and newest management technologies [4].

Involvement of stakeholders – groups of individuals and legal entities that have an impact on goods / services of a social nature, as well as related activities – is proposed to be implemented on the basis of a consistent implementation of a set of methods of strategic and operational regulation of the processes of joint design of the project, cooperation in the course of its practical implementation, dissemination of positive results and advancement of the achieved effects. Particular attention is paid to the participation of stakeholders of ecosystems in the formation of regional technological platforms. First and foremost, it concerns health systems and higher education as the most open to innovative methods of updating.

It is established that the modern requirements of regulation of the social sphere of Ukraine by means of PPP are fully in line with the sequence of its stages, which comprehensively takes into account the locations of the stakeholders and their respective risk categories for the implementation of projects – development, sponsorship, cost overruns, delays in implementation, untimely delivery of goods/ services, operational, insufficient demand and lower expected revenues, changes in macroeconomic conditions of implementation, non-return of capital (of non-profit), force majeure, a conflict of interest. Elimination of threats, refinement of places of their deployment, development of detailed prevention (relief) maps can be carried out on the basis of a complex of measures of feasibility study, legal examination, transaction pricing audit, use of non-financial criteria for evaluating private partners, time management, engineering expertise, management competencies, operational management, emergency management, financial engineering, management of framework agreements, prevention of unforeseen ion of the impact of external risks and force majeure, change management.

The expediency of completing the calculation of performance indicators of implemented PPP projects in the social sphere by the evaluated procedures at the stages of justification, ongoing implementation, and final analysis of partnership projects (fig. 1) was substantiated.

The methodical approach to the formation of an expanded list of indicators of evaluation of the effectiveness of PPP in the social sphere is developed. The calculations of budget, social, financial efficiency, technical and economic analysis of risks of competing project options are supplemented by appraisal procedures at the stages of practical implementation, as well as their completion. The system of indicators has been brought in line with the requirements of international standards of project financing, ensuring an adequate level of transparency, the efficiency of providing services (product production), service flexibility, risk prevention, financing of possible future debt obligations, definition of the complex value of services for users [5; 6]. The list of indicators satisfies the requirements for simultaneous monitoring of the target parameters of the projects by the partners of the partnership, periodic verification of the need for regulatory influence, completeness of achievement of the expected level of indicators of social, commercial and budgetary effects of cooperation.

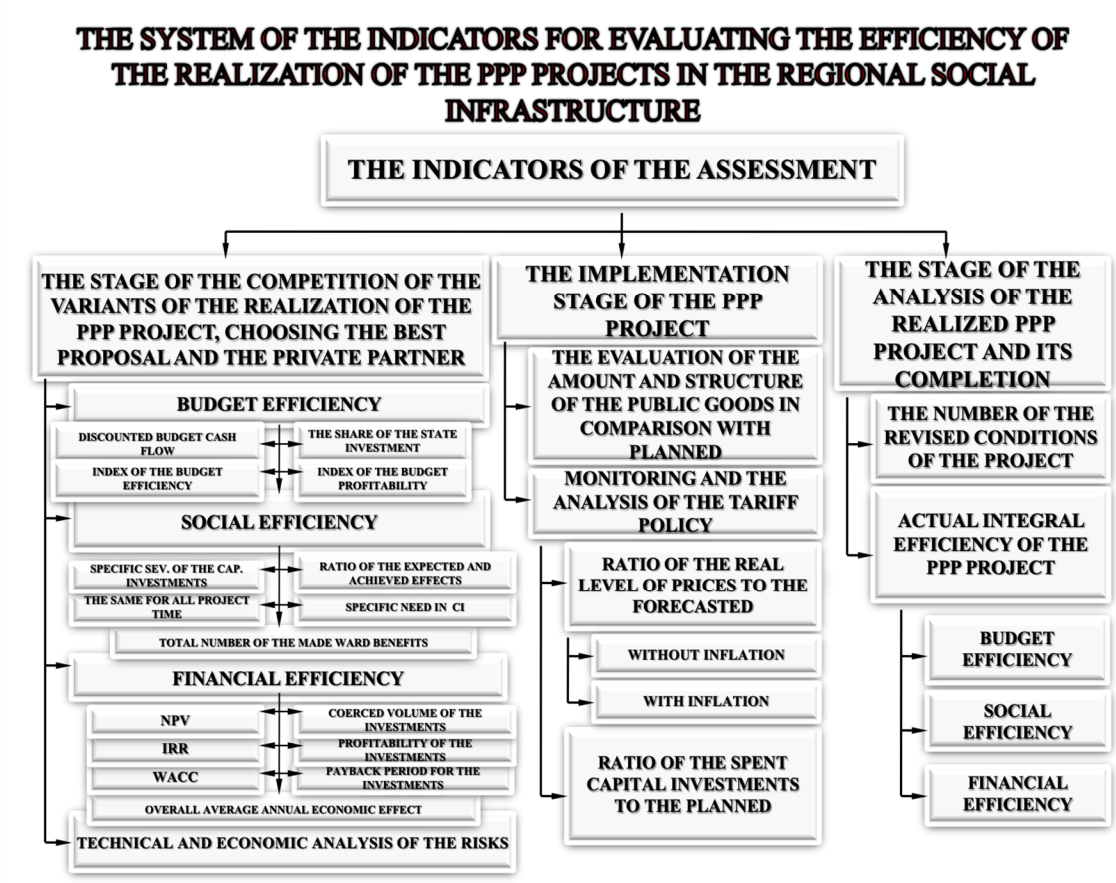

Fig. 1. Indicators of the evaluation of the effectiveness of PPP projects in the social sphere of the innovation system

The list of indicators can be significantly expanded for cases of implementation of partnership projects in specific segments of the social sphere of regional innovation ecosystems in the formation of communicative technological platforms. It is taken into account that efficiency is formed as a result of a two-way process – at the stage of creating a sufficient number of actors, later – at the stage of ensuring a stable high level of their innovation activity.

Except for said, the use of the system of monitoring and regulation of PPP project is foreseen [6] (Fig. 2).

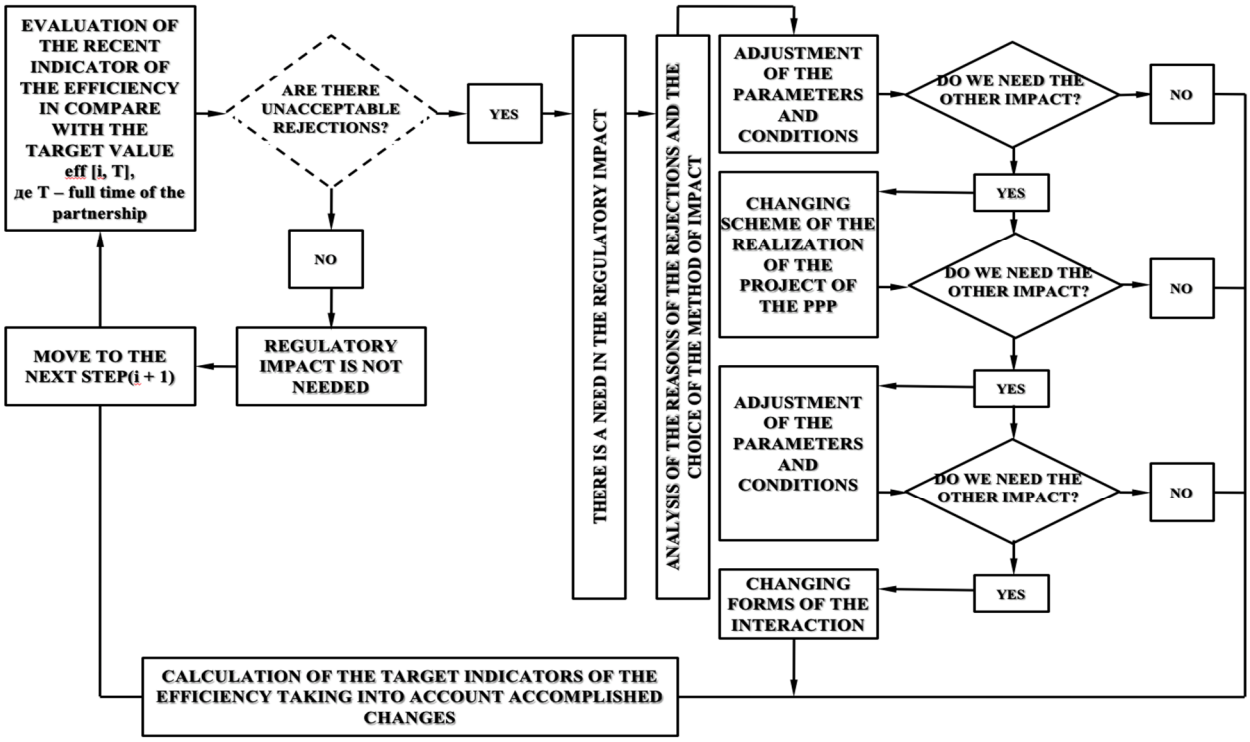

Fig. 2. Flowchart of the monitoring and regulation of PPP project

Thus, summing up the study of organizational and methodological support for improving the efficiency of the mechanism of regulation of PPP in the social sphere, we assert that we have achieved the following results:

− improved the mechanism of regulation of PPP in the social sphere, which, unlike the current one, operates in the context of realizing the strategic priorities of radical renewal of the sphere of provision of material and intangible services, is to enrich the spectrum and increase the level of quality of meeting the socio-social needs of material resources of human capital by increasing personal productivity growth potential, labor mobility, lifetime value values on the basis of the formation of a regulatory and legal framework for the regulation of social needs by means of public-public partnership, intensive deployment of technological platforms for the identification and structuring of the needs of stakeholders of regional innovation ecosystems, diversification and mobilization of the source of financial resources, implementation of marketing mechanisms and delivery channels to users social services of the highest quality;

− analytical assessment of the current state and trends of the regulation of PPP in the health care and social sector education sectors of the national economy of Ukraine regarding the definition of the distribution of powers among stakeholders in the field of goods production and provision of services, which at present are mainly carried out by state enterprises and institutions that, unlike the existing approaches, it will allow to make

maximum use of PPP projects for building up human and social capital of society, to spread the practice of PPP on the field of innovative medicine, education, creative industries of the social sphere, to promote the organic integration at the regional level of the elements of the mechanisms of social dialogue and partnership, which has the ultimate goal of comprehensive promotion of the development of the level of qualification of the work force, quality of life, dynamic renewal of the environment existence;

− directions of modernization of traditional and introduction of innovative forms of PPP, which allow to integrate disparate elements of sectoral clusters of social sphere into regional innovative ecosystems, enrich the practice of co-competitive implementation of partnership projects, minimize the influence of latent risks, provide their localization and effective hedging in the process of development of detailed prevention, relaxation and elimination maps;

− methodical support and organizational implementation of the benchmarking process of macroeconomic aggregates as the material basis of PPP in the social sphere at the level of the national economy; monitoring indicators of the evaluation of the effectiveness of the use of partnership models at the regional level of management, which, in contrast to existing approaches, fully takes into account the requirements for determining the indicators of current, as well as discounted social, commercial, budgetary and non-economic effects of cooperation at the stages of competitive consideration of possible implementation options, practical implementation and analysis of completed projects.

3. Formation and realization of social capital as a public good

The difficulty of defining the essence of the social capital (SC) is associated with the current lack of the common understanding of the term “capital” in the economic science. Generalized semantic content is reduced to the treatment of capital as good in general, contributing to an increase of good things, and the capital is not necessarily in favor in kind. The main feature of the capital is to generate income to the owner. In neoclassical economics understanding of capital as a resource to be invested in order to profit is the dominant concept that in its time was the cause of the economic analysis of categories of “human capital”, “intellectual capital”, “organizational capital”, “consumer/client capital” and which corresponds to the modern theory of social capital.

Focusing on the SC, we distinguish following its characteristic properties. The SC, on the one hand, meets most of the characteristics of the economic capital, on the other hand – has distinctive features. An analysis of the semantic content of common definitions of the SC – in terms of identification with the other forms of capital, determine the nature, characteristics and conditions of the formation, implementation mechanisms, the effects of the operation – makes it possible to fix the ambiguity in its interpretation of the SC at display some similarities.

A comparison of the basic properties of the physical, intellectual, human and SC, select the generic criterion of capital: capital is the accumulated stock of wealth previously produced. Capital determines the cost of production and profitability. In accordance with these characteristics, the SC, along with the physical, intellectual, and human, really is a form of economic capital. At the same time, there are a number of features of various forms of capital. The differences lie in the essential content, which affects the incarnation, natural essence, transferability, specificity of formation, changes in consumption and methods of measurement [7]. An integrated approach to the study of the nature of the SC allows us to formulate the definition of this category in view of the economic characteristics of a multidisciplinary approach. The SC is intangible economic good, which is a network of potential and existing social and economic relations, based on informal, appropriate, conscious, trusting interaction of economic agents, which provides access to resources and establishes general rules for the behavior of the interacting parties, all of which reduce transaction costs, ensure compliance and results in an effective coordinated action of economic agents. The SC is a part of the institutional environment, its formation is due to the social and communicative activities of the economic agents, and it is determined by socio-cultural context and laid down the potential of the social interaction of individual economic agents (fig. 3).

THE ELEMENTS OF THE SOCIAL CAPITAL

THE ELEMENT OF THE SC	THE ESSENSE OF THE DEFINITION AS THE ECONOMIC WEALTH
TRUST	THE BASIS OF ALL SOCIAL INSTITUTIONS, OPEN, POSITIVE RELATIONSHIPS BETWEEN PEOPLE, CONTAINING CONFISENCE IN THE INTEGRITY AND GOODWILL OF THE ANOTHER PERSON, THE MAIN FEATURE OF WHICH IS THE FACT OF LOYALTY, AFFECTION, READINESS FOR THE INTERACTION AND EXCHANGE OF THE CONFIDENTIAL INFORMATION, WHICH BEARS THE FINANCIAL CHARACTER, AND ALSO READINESS TO ACT ON SETTLEMENT RULES OF THE PROPERTY RELATIONS, ADOPTED IN A PARTICULAR SOCIETY
REPUTATION	A FUNDAMENTAL TOOL OF THE PUBLIC SYSTEM, DISTRIBUTED AND DIRECT SOCIAL CONTROL, OPEN COMPLEX OF THE ESTABLISHED ASSED IDEAS ABOUT THE PARTNER, BASED ON THE OBJECTIVE INDICATORS OF THE REPUTATION FACTOR, RELEVANT TO THE TARGET AUDIENCES
RULES	REQUIREMENTS FOR THE CONDITIONS, FORMAL NORM OF BEHAVIOR OF THE PARTICIPANTS OF THE ECONOMIC PROCESS, THE IMPLEMENTATION OF WHICH IS PROVIDED WITH ENCOURAGEMENT, AND FAILURE OR VIOLATION – WITH PUNISHMENT
NORM	PATTERN, RULE, THE PRINCIPLE OF THE SUBORDINATION OF STANDARDS, RECOGNIZED BY THE SOCIAL OR ECONOMIC ORGANIZATION (SYSTEM, GROUP), WHICH IN ONE OR ANOTHER FORM ARE SET TO MEET ITS VALIDITY FROM MEMBERS IN RESPECT OF CONFORMITY TO THE COLLECTIVELY RECOGNIZED VALUES, IDEALS
SANCTIONS	MECHANISMS OF THE SOCIALIZATION AND SOCIAL CONTROL, THE RESPONSE OF THE SOCIAL GROUP WITH CERTAIN FINANCIAL INTERESTS ON THE ECONOMIC BEHAVIOR OF THE INDIVIDUAL, GROUP OF INDIVIDUALS, THAT DEVIATES FROM THE EXPECTATIONS, NORMS AND VALUES
VALUES	ORDERS AND EVALUATIONS, IMPERATIVES AND PROHIBITIONS, GOALS AND PROJECTS IN THE FORM OF THE NORMATIVE IDEAS, ACTING AS BOUNDARY ORIENTIRS OF KNOWLEDGE, INTERESTS AND BENEFITS OF THE ACTIVITY OF THE COMMUNITY GROUPS AND INDIVIDUALS IN THE ECONOMIC SPHERE AND RECOGNIZED WITH THEM
CULTURE	SPECIFIC WAY OF THE ORGANIZATION AND DEVELOPMENT OF LIFE IN THE ECONOMY REPRESENTED IN THE PRODUCTS OF LABOR, A SYSTEM OF NORMS AND INSTITUTIONS, TOTALITY OF THE ECONOMIC RELATIONS FOR RECOGNITION AS BASIC NORM OF THE MARKET BEHAVIOR AIMED TO MAXIMIZE THE INDIVIDUAL UTILITY AND THE SUBORDINATION OF THE INDIVIDUAL INTERESTS TO THE COLLECTIVE ONES FOR THE PARETO OPTIMUM

Fig. 3. The elements of social capital

Communication and social networks are the instruments of the development of the social resources of the individual act. Communication is an integral part of daily life of individuals through which information is interaction, which expands or reduces the possibility of mutual understanding and cooperation. Social network relationship is a form of social interaction when the subjects are stable relationship to each other to cause a reaction from the partner. An important component of communication and social relationships is trust. As an independent socio-psychological phenomenon trust performs basic functions in life [9-10].

The mechanism of the implementation of the SC is the process of converting the existing and potential socio-economic ties directly into tangible economic benefits. At the same time the relationship between economic agents acquires the following characteristics: informal (use of SC is not fixed by formal regulations); expediency (communication helps to achieve certain economic objectives); consciousness (the entity is aware that he uses SC); relationships are of confidential nature. Motivation that urges parties rely on trust, is the desire to take advantage as compared to the formal agreements. In this sense, we can say that the SC will occur in cases where the transaction costs of the formal cooperation would exceed the transaction costs of maintaining the SC [8].

In fact, the mechanism for the implementation of the SC for the transformation of social relationships in the channels through which runs three main elements: the resources (including information); the general rules of interpretation of information; patterns of behavior. As a result, SC forms a kind of infrastructure and economic relations through the creation of conditions for the interconnection of economic agents and to provide basis for the functioning of the economy.

The processes that take place during the implementation of SC have their results. According to three directions of the process of the implementation of the SC, there are three main outcomes: access to resources; access to information; consolidation of the general rules of interpretation of information and patterns of behavior by informal coercion respect the rules, thereby reducing the risk of opportunistic behavior of economic agents (fig. 4).

As a result of the functioning of the organizational-economic mechanism of functioning of the SC, mobilization of resources interacting entities occurs, timely economic activity is provided, transaction costs are reduced, the behavior of people in compliance with its rules is formed (fig. 5).

Fig. 4. Essence of social capital

In this sense, the implementation of the SC can be explained by the phenomenon of the unequal, ceteris paribus, the impact of actions of economic agents; it has different volume, which confirms the effectiveness of the principle of heterogeneity of agents and uneven development. As a result, the effectiveness of economic coordination increases, that is, the efficiency of traffic control economic benefits, traffic information, the behavior of economic agents by ensuring the unity of meaning of activities and interpretation of information, lower costs of adaptation to changing conditions, the actualization of an alternative mechanism of compensation (insurance) risks. These consequences are the basis for the creation of synergies, as a result of the efficiency of economic activity increases many times, contributing to better meet the needs of economic agents.

THE ELEMENTS OF SOCIAL CAPITAL (SC) AND ITS IMPACT ON THE TRANSACTION COSTS (TC)

THE ELEMENT OF SC	THE IMPACT ON TC	DRAWBACKS
TRUST	REDUCING THE COST OF THE OPPORTUNISTIC BEHAVIOR REDUCING THE COST OF MONITORING AND CONTROL	REDUCTION OF THE OPPORTUNITIES OF THE LEGAL REGULATIONS FOR THE VIOLATION OF THE AGREEMENT
REPUTATION	DISSEMINATION THE INFORMATION ABOUT THE VIOLATION OF OBLIGATIONS	POSSIBILITY OF THE MISUNDERSTANDING THE INFORMATION
RULES NORMS SANCTIONS	REDUCING THE COST OF MONITORING AND CONTROL REDUCING THE COST OF THE SPECIFICATION AND PROPERTY RIGHTS PROTECTION	INABILITY TO DISTINGUISH THE OPPORTUNISM FROM THE UNCONSCIOUS VIOLATION OF THE AGREEMENTS INCREASING THE COSTS OF DISCLAIMER OF THE AGREEMENT
VALUES CULTURE	FORMATION OF THE GENERAL IDEAS ABOUT THE FUTURE BEHAVIOR RELIEF DATA TRANSMISSION CREATION OF THE GENERAL INFORMAL RULES OF BEHAVIOR	DURATION OF THE FORMATION OF THE GENERAL NORMS AND IDEAS

Fig. 5. The elements of social capital and its impact on the transaction costs

Thus, SC, as an economic category, is characterized by the following essential features:

− has an impact on forms of the economic behavior, if necessary, to dispose of scarce resources for the realization of the needs of people – hence, the subject of economic theory;

− it is a mean to meet the needs – hence, it is a boon;

− it is in itself a way to meet both social and industrial needs – hence SC – is consumer goods and production resources.

The formation of SC is associated with socio-economic relations, social resources (the place of the individual in the social institutions, the level of his influence and connections, inadequate understanding of the cultural values and norms of signals, social contacts margin of economic agent), recognized standards, values, understanding and trust.

Summarizing the research process of the formation of the SC, we may note that it is formed with the institutional environment and it is a part of the institutional environment itself. Its development in general is based on social-communicative activity of economic agents about the production, distribution, exchange and consumption of goods. As a source of the formation of the SC, the incorporated potential social and communicative interaction of the individual acts, which is later determined with the social sphere. Its influence on the formation of the social capital is realized through the influence of various kinds of institutions.

The process of the implementation of the SC is consistently controlled transformation of existing and potential social networking directly into economic benefits. The interaction of the economic agents is characterized by informal, expediency, conscientiousness, confidence. The mechanism of functioning reflects the main directions of the SC: access to productive resources, access to information and binding rules and rules of conduct. During the implementation of the SC each direction produces a specific direct effect: mobilizes the necessary resources to reduce the degree of uncertainty and generates a pattern of behavior, all of which leads to a reduction of transaction costs, uncertainty and risks of opportunistic behavior and a number of other, specific to each level of the implementation, effects.

Conclusions.

The theoretical basis of using the mechanism of PPP in the social sphere of the economy is disclosed in article. The peculiarities of forms and models of regulation of social sphere by the means of PPP, the directions and priorities of its using in the process of realization the social projects with the purpose of dynamization of development the regional innovative ecosystems are determined. The comparative analysis of the peculiarities of regulation the social sphere by the means of PPP in the context of international comparisons is conducted. In publication the strategic guidelines of improving the effectiveness of regulation of public-private partnership in social sphere are proposed. The methodological approaches to the modernization of the mechanism of regulation of PPP in the social sphere of the national economy and its implementation into the process of self-organization and self-governance of regional innovative ecosystems are developed by the author. In article the system of indicators of monitoring of the effectiveness of PPP in the conditions of expanding the participation in it the institutional stakeholders in the social sphere are substantiated.

The process of the implementation of social capital is consistently controlled transformation of existing and potential social networking directly into economic benefits. The interaction of the economic agents is characterized by informal, expediency, conscientiousness, confidence. The mechanism of functioning reflects the main directions of social capital: access to productive resources, access to information and binding rules and rules of conduct. During the implementation of social capital each direction produces a specific direct effect: mobilizes the necessary resources to reduce the degree of uncertainty and generates a pattern of behavior, all of which leads to a reduction of transaction costs, uncertainty and risks of opportunistic behavior and a number of other, specific to each level of the implementation, effects.

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THE INTERNATIONAL ORGANIZATIONS` LEGISLATIVE FRAMEWORK ON CYBERSECURITY PROFESSIONALS` TRAINING

Abstract*. At the present stage of science and technology development the need to strengthen cyber security in every developed country and transform it into one of the most important sectors of world society is growing. The peculiarities of the professional training of cyber security bachelors in the U.S. higher education system have been defined. The relevance of this approach is determined by the dynamics of technological advances. The aim of this study is to determine the course of research and to highlight its results.*

JEL Classification: F53, H56

Introduction.

An innovative approach is a methodological platform for research and students' project work, their communication with professional scientific community on the stage of the national strategy on cyber security implementation.

First the results of the comparative analysis of educational programs for cyber security bachelor's degree in the U.S and Ukraine have been presented. At the stage of the national strategy on cyber security implementation there has been made an emphasis on a specific task – to provide a balance between the objectives and results of education for the inner harmony of study process. We have indicated a number of key tasks, as follows: standardization, implementation of dual and mixed types of training, the promotion of new technologies in the educational process; provision of the motivation of students.

The carried out research of American experience concerning professional training of cyber security bachelors will enable to determine the possibilities of its progressive ideas implementation into higher education of Ukraine (in particular, the improvement of industry standards for cyber security bachelor's degree; providing the information support of Internet resources; development and improvement of the content of curriculum and educational programs for training bachelors of cyber security; improvement of educational and methodical implementation; advanced study of foreign experience.

The successful implementation of reasonable opportunities will promote professional training of national experts in the field of cyber security, accelerate the process of reforming the national higher education system, convergence of the international educational standards, and ensure its competitiveness in today's job market

The aim of this study is to determine the course of research and to highlight its results. Thus, a comprehensive study of bachelors' professional training in the field of "Cyber Security" at US universities and colleges was carried out. In particular, as a part of it the international organizations` legislative framework on cybersecurity professionals` training has been selected for studying .

The features of their training structure. International cybersecurity policy and peculiar features of its implementation**,** regulatory documents on IT-professionals` training for international and national agencies, forms of organization and funding sources; social partnership between the State and the community, the interaction of the major participants in the bachelor's study programme have been explored and revealed.

The carried out analysis a generic reference curriculum of NATO cyber security shoes the way of solving the problem of cyber threats and the way of harmonization of legislation at the national level and strengthening of cooperation with the European countries as the most effective mechanism of integration into the EU. By adopting conventions and declarations countries all over the world employ a single approach to ensure security in cyberspace recognizing the need for cooperation in this area.

This studying deals with the Cyber defense policy framework approved in 2014 as one of the main documents specifically addressing these issues, which serves as a basis for confronting the risks posed by cyber threats. The carried out analysis deals with the procedure for assisting the EU Member States in promoting awareness of possible cybercrime incidents and their consequences, providing training for counteraction and determines the need for further initiatives for cooperation with the partner countries, other international organizations.

However, the carried out analysis of the relevant materials shows that there exist various perspectives and approaches to solving the problem of cyber threats in different countries and it is extremely important for Ukraine at its current development stage. Analysis also shoes the difference of solving cyber security problem lies in the designation of responsible authorities (national organizations responsible for cyber security management or coordinating bodies, whereas policy management and implementation lie under the purview of government departments).

The scientific novelty of the obtained results and the theoretical significance of the study is that for the first time in the national pedagogical science a comprehensive analysis of the bachelors' professional training in the field of "Cyber Security" in higher education institutions in the United States was carried out; the international organizations` legislative framework on cybersecurity professionals` training, organizational, pedagogical and didactic principles of the cybersecurity bachelor's professional training in the American higher education system are disclosed; a comparative-pedagogical analysis of the cybersecurity bachelor's professional training in higher education institutions in the United States and universities in Ukraine was carried out.

The peculiarities of the study content are the multidisciplinary nature of teaching and learning, double majors studying, and the introduction of cybernetic security specializations in other specialties, the integration of the theoretical and practical components in the process of specialists training. With regard to the forms and methods of professional training of bachelors from cybersecurity, they are aimed at research skills development, an independent work organization, interactivity, and total computerization). The comparative and pedagogical analysis of the cybersecurity bachelor's professional training in higher education institutions in the United States and Ukrainian universities gave the basis for the extrapolation possibilities of American experience constructive ideas into the system of higher technical education in Ukraine on the strategic, organizational, and content levels.

1. International cybersecurity policy and peculiar features of its implementation

Regardless of the fact that any country`s national policy implies its national boundary security and the national sovereignty protection, cyberspace infrastructure, equipment and logistics operate beyond such borders determining its status as an international domain. A transnational nature of cyberspace requires cooperation at the regional and international levels to sort out a number of problems. Besides, as a measure to overcome the threats and to develop appropriate solutions to enhance cyberspace security at the national level, there is a need for cooperation in various sectors: political, economic, technological, legal, managerial, military. In the modern information society there has been observed the dependence of economic, political and social spheres on information and cyber capabilities of a country. According to expert estimates, the potential damage from cyber attacks to online banking and financial services of only one European country will account for over 10 million euros a day [12]. Therefore, many countries have developed and adopted national cybersecurity strategies backed by the relevant legislative framework together with national mechanisms for responding to cyber incidents. Some countries have proclaimed cyberspace to be the fifth military object, creating protective and offensive cyber teams in their armies in order to minimize risks for industry and citizens.

However, the conducted analysis of the relevant materials shows the way of various perspectives and approaches to solving the problem of cyber threats in different countries. The difference lies in the designation of responsible authorities: while in some countries there have been established national organizations responsible for cyber security management, in others responsibility for the national policy implementation is assigned to coordinating bodies, whereas policy management and implementation lie under the purview of government departments. Despite the establishment of national bodies responsible for the cyber security policy and the specifics of its implementation in each individual country, the international nature of cyberspace requires the development and coordination of policies primarily at the international level [13]. The analysis of the research materials allows for the conclusion that the number of international organizations, government and non-governmental bodies responsible for global or regional cyber security is steadily increasing. Their activities range from research to regulative and aimed at laying out a common collective approach to solving the problem of cyber threats.

2 .Regulatory documents on it-professionals` training for international and national agencies

Over the course of the research it has been used Regulatory documents on IT-professionals` training of which are issued abroad, namely:

- analytical materials of the international and national organizations, departments, associations and agencies that regulate and are engaged in IT professionals` training (UNESCO, the Council of Europe, The European Union Agency for Network and Information Security, (ENISA), the Organisation for Security and Co-operation in Europe (OSCE), the International Association for Computer Information Systems, the International Multilateral Partnership Against Cyber Threats (IMPACT), the International Telecommunication Union, the National Security Agency, the Committee on National Security Systems, the National Centers of Academic Excellence in Information Assurance / Cyber Defense, the National Infrastructure Protection Center, the Defense Information Systems Agency;
- the U.S. legislative and regulatory documents (Presidential Decision 63 (PDD 63), the National Strategy to Secure Cyberspace(2003), the Homeland Security Act of 2002, the Cyber Security Research and Development Act, etc.);
- scientific, methodical, information and analytical materials, educational professional programs, curricula and syllabi of the U.S. colleges and universities (Walden University, American Military University, Embry-Riddle Aeronautical University, St. John's University, Mercy College, Iona College, Saint Vincent College);
- scientific works by the Ukrainian and foreign researchers, in particular, American ones (A. Bork, D. Bromwich, A. Bicak , J. Gorgone, P. Gray, J. Franscella, E. Stohr etc.)
- publications in the domestic and foreign scientific and pedagogical periodicals such as "Education of modern times", "Studies in Comparative Education", "Comparative professional pedagogy", "Journal of Digital Learning in Teacher Education", "Journal of Information Systems Education", "Journal of Learning Analytics", "Program Information Systems Education Journal", "Roadmap for Improving Critical Infrastructure Cyber Security " etc.;
- official web pages of the US higher education institutions, encyclopedias, reference books, dictionaries, etc.

The analysis of the cybersecurity legislative framework in different countries has made it clear that it is quite a complex issue and is subject to constant changes with the difference being observed in how the notion of cybersecurity is treated in national laws.

Many countries and national organizations keep within the national and international cybersecurity legislation and report on certain types of financial or other types of cybercrime accordingly. There exist the international standards for law enforcement activities (cooperation implemented by Interpol). Many countries have adopted requirements for reporting on the commission of cybercrime. Work is currently underway to create the international Cyberethics Code.

The most influential international organizations implementing the policy of coordination and regulation of countries` activities on the safe use of cyberspace are: UNESCO, NATO, the U.S. Government Cyber Command, Europol, the Cooperative Cyber Defence Centre of Excellence (CCD COE), the European Agency for Network and Information Security (ENISA), the International Organization for Standardization (ISO), the Organisation for Security and Co-operation in Europe (OSCE), the Global Forum for Incident Response and Security Teams, the International Multilateral Partnership Against Cyber Threats, (IMPACT), the Armed Forces Communications and Electronics Association (AFCEA), the Internet Corporation for Assigned Names and Numbers (ICANN), the Internet Governance Forum (IGF), the UN-backed International Telecommunications Union (ITU) [7].

We are going to consider the most important laws and regulations issued by the international organizations governing various aspects of cyberspace operation.

3. Policy of NATO and council of Europe`s convention on cybercrime.

The North Atlantic Treaty Organization (NATO) is the collective defense centre focusing its efforts on cybersecurity. NATO is monitoring the growing number of cyber threats caused by society's dependence on technology and the Internet. Consequently, cybersecurity has been given much attention in its strategic and institutional plans. In 2009 NATO accredited the Center for Advanced

Training in Cyber security (CCD COE) to carry out international research on cyber law education. The development of cyberspace had given rise to the changes in the organization`s doctrinaire structure. In 2016 28 Member States agreed to announce cyberspace to be the operating sector apart from air, land and sea.

In 2016 NATO developed the important document "Cybersecurity: a generic reference curriculum" to provide its partner countries with the plan for the introduction and support of advanced courses on cyber security. This document is a "road map" to the provision of future cyber security specialists with the necessary knowledge and skills and is a great contribution facilitating the development of cybersecurity policies at the national and international levels [11].

It should be noted that the document specifies the professional knowledge and skills necessary for future specialists (p. 13) such as:

- knowledge of the international and national law on cybersecurity (p. 48)
- skills in cyber operation management at the national level (p. 54).

The document offers the most effective training methods and forms, mostly practice-oriented which should be implemented in cooperation with the industry representatives (engaging representatives of private and public organizations in delivering certain topics, for example, cyber security of private companies (p. 25) [11].

Harmonization of legislation at the national level and strengthening of cooperation with the European countries is the most effective mechanism of integration into the EU which is extremely important for Ukraine at its current development stage. The Stabilization and Association Agreements as key documents connected with the EU enlargement, outline, in particular, the obligation of all countries to bring their national legislation in line with the EU laws and regulations. In the field of communication and information systems there are provisions of the EU legislation aimed at creating cybersecurity of the member countries.

By adopting conventions and declarations countries all over the world employ a single approach to ensure security in cyberspace recognizing the need for cooperation in this area. The most important international convention on cybersecurity is the Council of Europe`s Convention on Cybercrime (Council of Europe, 2001).

The Convention is the legal basis for combating cybercrime including attacks on information systems. This convention supplemented by the Protocol on xenophobia and racism that is spread through computer systems is the only binding international cybersecurity agreement that is considered to be an archetypal pattern for all countries concerned with cyberspace security. The convention has been signed by 54 countries (and ratified by 48) from all over the world. According to the Budapest Convention, the parties are obliged to adopt appropriate cybercrime legislation; to set up proper mechanisms for effective cybercrime investigation and prosecution; to be engaged into international cooperation among all countries concerned with cyber security.

Thus, the Budapest Convention introduces the international legal standards through the criminalization of cybercrime and initiates measures to manage programs of cybercrime prevention encouraging cooperation on collecting data, extradition, mutual assistance, exchange of information etc. (Council of Europe, 2001, 10-17).

Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems has introduced new rules for criminalization and punishment for a number of crimes against information systems, thus complementing the provisions of the Budapest Convention. These rules require the EU countries to rely on the same contact clauses approved by the Council of Europe and the G-8 to promptly respond to the threat of using advanced technologies for criminal purposes [14]. The main types of criminal offenses defined in this Directive are attacks on information systems ranging from denial-of-service attacks designed to destroy a server to data interception and botnet attacks. Thus, the Directive focuses on cybercrime unification for its criminalization in all the EU member states together with strengthening cooperation of law enforcement agencies. For this purpose, operational national contact centers are established in the EU.

In order to respond to terrorist acts in the EU cyberspace in a timely manner, in 2015 the Council of the European Union approved the “European Agenda on Security” (Council of the European Union, 2015) which defines the general strategic framework for the EU cyber security initiatives and prevention of cybercrime [6].

The program is aimed at increasing law enforcement agencies` effectiveness, in particular through the establishment of the European Cybercrime Centre (Europol) and solving problems related to cybercrime investigations, for instance, regarding free access to evidence of such crimes. The main activities (European Commission, 2015) [9] set by this program include the updating of the Council Framework Decision of 13 June 2002 on combating terrorism (the Council of the European Union, 2002), [3] strengthening the dialogue with the IT industry and enhancing tools for combating cybercrime, solving problems of the industry staffing. The program also emphasizes the importance of strengthening Europol`s positions including the creation of the European Counter-Terrorism Center which will help Europol to upscale support for national law-enforcement agencies` activities on combating foreign terrorists, terrorist financing, extremist content on the Internet and illicit trafficking in firearms.

The Cyber defense policy framework approved in 2014 (Council of the European Union, 2014) is one of the main documents specifically addressing these issues. It serves as a basis for confronting the risks posed by cyber threats. In accordance with the document it has been identified five priority areas for the provision of cybersecurity and the common defense policy: support for the development of the EU member states` cybersecurity capabilities; promotion of cooperation between the civilian and military sectors by the relevant national and European institutions and extending the cybersecurity policy in the EU; upgrading skills, providing the necessary education and training opportunities for personnel; strengthening cooperation with the international partners such as NATO [5].

In order to intensify cybersecurity measures, the defense policy framework defines, among other things, the procedure for assisting the EU Member States in promoting awareness of possible cybercrime incidents and their consequences, providing training for counteraction and determines the need for further initiatives for cooperation with the partner countries, other international organizations. Although the main priority in the field of cybersecurity is communication and information systems protection, the defense policy framework rests on reliable and secure national infrastructures of the EU member states.

The basis for the protection of information and communication networks infrastructure is also laid down in a number of other EU documents. For instance, Directive 2008/114/EC on the identification and designation of the European critical infrastructures and the assessment of the need to improve their protection “The European Programme for European Critical Infrastructure Protection” (Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection, 2008**)**. A noteworthy detail is that this document defines the common, "umbrella" approach to protecting the EU critical infrastructure. The directive defines the need to identify critical European infrastructure components breaching or destruction of which will have serious international consequences connected with the fact of individual countries` infrastructures being interconnected.

The assessment of security requirements for such an infrastructure should be carried out based on the single approach specified in the Doctrine. A number of documents of the European Union are aimed at combining efforts to ensure the safe use of cyberspace. The EU "Cyber Security strategy: An open, safe and secure cyberspace" was adopted in 2013 (European Commission, 2013) and became the first comprehensive EU document in this area. It sets out the following five strategic priorities: achievement of cyber resilience by countries; introduction of measures to reduce cybercrime; the development of relevant national policies and cyber defense capabilities related to a common security and defense policy; the development of industrial and technological resources to provide cyber security; the establishment of the coherent international cyberspace policy for the EU and promotion of the key EU values development [8]. The "Digital Agenda for Europe" adopted in May, 2010 (Council of Europe, 2010), is one of the most important strategic documents at the EU level which emphasizes the general understanding that trust and security are fundamental prerequisites for the spread of ICT laying the foundation for achievement of "sustainable growth" objectives in line with the strategy "Europe 2020". The "Confidence and Security" section of the Program stresses the need for all stakeholders` combined efforts aimed at security and sustainability of the ICT infrastructure, focusing in particular on prevention of cybercrime, preparedness to take protective measures and public digital literacy, sufficient human resources available for the industry [4].

4. The protection directions of individuals in cyberspace

Protection of individuals in cyberspace is carried out in several directions. The Council of Europe`s Convention on the Protection of Individuals with Regard to Automatic Processing of Personal Data signed by 47 countries (Council of Europe, 1981) takes on peculiar importance for cyberspace safety.

The purpose of this Convention is to strengthen the protection of individuals` data arising from the mandatory automatic processing of personal data. The importance of the document is difficult to overestimate, especially given the need for legal provisions of the so-called "e-government". The convention sets out the mechanism for cooperation between countries and establishes clear rules for cross-border data transfer conducted through the relevant state authorities in the participating countries responsible for its security.

It should be noted that the Council of Europe is concerned with the protection of children in cyberspace, in accordance with the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (alternatively named the Lanzarote Convention) (Council of Europe, 2007) highlighting the need to create the foundations of a safe Internet environment the operation of which is aimed primarily at providing children with useful information and the opportunity for unfettered communication.

The Council of Europe`s Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse is the most up-to-date standard in this field.

The Convention of Lanzarote has been signed and ratified by 40 states. Its importance lies in the fact that it contains many references to the use of information and communication technologies in the context of preventing sexual exploitation and sexual abuse of children. This requires the criminalization of such actions as deliberately obtained access to child pornography on the Internet. Thus, this document and the Convention on Cybercrime complement each other. It is important to note that the attention of the international organizations is often addressed to the problem of the IT industry staffing and protection of cyberspace. The Directive on Network and Information Security which came into force in August 2016 (European Union (2016), requires each Member State of the European Union to create a team of highly qualified specialists capable of a timely response to cybercrime incidents within the framework of a special national organization together with the introduction of assigned groups on strategic cooperation. The Directive also lays the groundwork for the exchange of information between the private and public sectors and identifies several categories of key service providers required to develop the appropriate security measures and notify the relevant national authorities of serious incidents occurring in cyberspace.

The issues of providing the necessary training for IT staff are being increasingly addressed at the international level. Establishment in 2013 of the main organization in the EU responsible for implementing activities related to communication and information systems (European Agency for Networks and Information Security) was aimed at provision of educational services through organization of regular expert trainings on crisis management in cyberspace and giving practical recommendations, conducting research and arrangement of international conferences on cooperation in cyberspace [8].

The study of the documentary base allows us to conclude that the United Nations` activity in the field of cyber security is fragmented, as this problem is being a primary concern at various levels by a considerable number of bodies and institutions.

In order to address this misstep, in 2013 the interdepartmental collaboration was established between the International Telecommunication Union and the United Nations Office on Drugs and Crime. Over the course of further activities, the Pan-European Framework for Cyber Defense and Cybercrime (Council of the European Union, 2014) was developed in 2013. This document was drawn up to improve the United Nations` organizations internal coordination activities on related issues [6]. Consequently, international organizations play a significant role in ensuring the functioning of free and safe cyberspace for all citizens in many countries. Their activities are aimed at developing the necessary documents that create the legal basis for international cooperation, combining efforts to prevent and respond to cybercrime, training personnel capable of ensuring the safe use of information and communication networks. Joint activities of countries under the leadership of the international organizations facilitate more effective counteraction to cybercrime at the national level not reducing the development rate of the IT industry [2].

Conclusions.

At the current stage of science and technology development cybersecurity has turned into one of the most crucial fields of the hi-tech society. Due to ubiquitous computing and widespread use of information technologies in every area of life, society has become extremely vulnerable to cyber influence that is increasingly becoming an effective tool of non-force control and management of state and enterprise infrastructure objects as well as individual citizens and their groups. Continuously growing flows of transmitted information are kept and processed in cyberspace requiring their proper protection from unauthorized access for criminal purposes. It is beyond argument that in the conditions of constant high-tech society development the demand for IT professionals is expected to be permanently growing.

It has been found out that the methodological framework for studying the problem of cybersecurity specialists` professional training is comprised of the following approaches: competence-based within which professional training is considered as a process of acquisition and consolidation of general and special knowledge, abilities and skills for effective performance of professional tasks in the IT- industry; functional determining the dependence of future cybersecurity specialists` professional development on the peculiarities of educational institutions` activities; instrumental, emphasizing the importance of mastering the system of skills through the application of appropriate methods and forms of educational process organization; person-oriented treating a future specialist in cybersecurity as a highly professional individual; axiological considering cybersecurity specialists` professional training as a process of their professional qualities formation with regard to the values of society.

The obtained results by studying of the documentary base allows us to conclude that the United Nations` activity in the field of cyber security is fragmented, as this problem is being a primary concern at various levels by a considerable number of bodies and institutions. The analysis of the research materials allows for the conclusion that the number of international organizations, government and non-governmental bodies responsible for global or regional cyber security is steadily increasing. Their activities range from research to regulative and aimed at laying out a common collective approach to solving the problem of cyber threats. The synthesis of the scientific research results obtained by the Ukrainian and American scientists made it possible to conclude that the need to study the problem of cybersecurity specialists` professional training is conditioned by the requirements of national security and educational practice. It is interesting that conceptual definitions of the following notions remain open to discussion: "IT industry", "cyber threats", "cyber attacks", "cyberspace", "cyber defense", "information security", "cybersecurity", "cyber-security policy", "risks", "cybersecurity professional", "specialist in information security", "bachelor of cybersecurity", "cybersecurity bachelors' professional training". Differences in scientific interpretation of these concepts determine the structural, content, organizational and pedagogical principles and peculiarities of the IT industry professionals` training in the United States.

Based on the generalization of the research results, the notion "training of specialists in cybersecurity" should be considered as: socially, economically, politically determined phenomenon; a pedagogical system which is an important part of a higher education system; a holistic continuous pedagogical process aimed at acquisition of the systematized professional knowledge, scientific outlook, forming skills and their constant updating carried out with regard to technological advancements, modern trends of the information society, the needs of the domestic and world labor markets. The international nature of the cyberspace requires the development and coordination of a common policy for all countries ensuring the safe use of cyberspace. Having analyzed the international normative legal documents, it is generalized the main directions of the international organizations` activities in the field of cyber security: creation of the legal framework for international cooperation of different countries, combination of efforts to prevent and timely response to cybercrime, effective training of personnel capable of ensuring the safe use of information and communication networks

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SOCIO-LEGAL ASPECT OF THE STRATEGIC DEVELOPMENT OF INCLUSIVE HIGHER EDUCATION AND SOCIAL ENTREPRENEURSHIP

Abstract. *The paper is devoted to the study of the social and legal aspects of the strategic development of inclusive education in higher education and social entrepreneurship. In the course of the research, the scientific , educational, methodological and normative base of the formation and organization of higher inclusive education was analyzed, its main principles and forms of organization were considered, domestic and foreign experience in this sphere was studied . According to the results of the study, the essential characteristics of "inclusiveness" and "inclusive education" are presented, the main features of the inclusive educational environment of the higher educational institution are outlined and the main directions of support for the training of students with special educational needs in the conditions of higher inclusive education are determined. The well-known norms, methods and techniques for estimating the level of inclusiveness are analyzed. The necessity to form a system of indicators for estimating the level of inclusiveness of the internal and external environment at enterprises and institutions is substantiated.*

Priority directions of strategic development of higher inclusive education have been developed: 1) the formation of the appropriate material and technical basis for the creation of an inclusive space; 2) the formation of educational and methodological provision of the inclusive educational process; 3) increasing the inclusive competence of scientific and scientific and pedagogical workers in order to ensure the provision of high-quality inclusive educational services; 4) the formation of a supportive psychological climate for the introduction and development of inclusive education. The sequence of estimation of inclusiveness level and its system of audit at enterprises and institutions is offered. Aturn to social enterprise type s social responsibility and formed n ered Ukrainian society task of determining the national specifics of this phenomenon and ways to support from the state. It is proposed to deepen institutional support by adopting legislative acts on the development of social entrepreneurship, to implement its system and its comprehensive implementation in all regions of Ukraine through inclusive audit , to implement it by disseminating the position of the inclusive (open) media with the media with a view to realizing the rights and freedoms of every citizen of Ukraine on education and work.

JEL Classifacation: H75, Z13

Introduction.

Nowadays, the issue of inclusive higher education and social entrepreneurship raises especially sharply. The need for solving these problems is of strategic importance and is a priority strategic reference point for both higher education institutions and non-profit organizations and business structure.

The development of inclusive higher education and social entrepreneurship is closely linked to the relevant socio-legal aspect, which largely defines it as a legal and social status, and regulates the peculiarities of formation and development.

In the conditions of the development of a society in which a growing number of people with special educational needs, especially when it comes to young people, is faced with the problem of providing them with appropriate conditions for studying, this also actualizes the issue of the need for development in the modern conditions of inclusive education. To date, a significant part of institutions of higher education actively work on the issue of creating conditions access andattendance training for people with special educational needs.

The introduction of inclusive education is associated with a host of problems. Unresolved by them problems remain in the practical implementation of such training and his teaching and methodological support. It is essential in the formation of the higher education learning environment, which would take into account the functionality of students with special educational needs, and allows fully their involvement in various social spheres of life , processes, group communications, thereby expanding their capabilities and promoting self-development and self-realization.

Important is the issue of inclusive competence of the faculty [1]. Ensuring the provision of inclusive education services involves the need for individual work with and students with special needs, the involvement of other students for assistance and teamwork, and the use of certain special education in the educational process. Thus a particular task is to create a favorable psychological climate that will promote quality th and productive course of study. Along with the improvement of the methodology of socio-pedagogical work and teaching methods, active work should also be conducted with entrants with special educational needs in order to attract higher education institutions into the educational environment and all kinds of assistance therefrom.

The main tendency of the western countries to provide training for people with special needs is their inclusion in the usual educational and social environment of higher education institutions. Inclusiveness is also based on the principle of equality of persons with special needs in society as a whole and in the educational environment of higher education institutions in particular [1].

The main task of inclusive education is not only to provide educational services to students with special needs on an ambiguous basis their inclusion in the environment of ordinary institutions of higher education, and creation of conditions for the development and self-realization, training and improvement, harmonization of relations with society, improvement of communication skills and life in general. A leading global trend is to ensure social adaptation of people with special educational needs. That is why, the issue of the organization , implementation and development of inclusive education and social entrepreneurship, as well as the study of advanced world experience in this field.

1. Theoretical and normative-legal principles of development inclusive space.

The research on the formation and development of inclusive education is devoted to scientific works of both domestic and foreign scholars. Among foreign researchers should be distinguished [2-7]: A. Dyson, J. Andrews, T Lorman, D. Deppeler, D. Kharvi, G.J.S. Dei, I.M. James, L.L. Karumanchery, S. James-Wilson, J. Zine, T.M. Skrtic, W. Sailor, K. Gee, Dzh. Lupart, Ch.Vebber et al.

Scientists thoroughly study the issue of inclusion and inclusive education, analyze its main conceptual provisions and fundamental principles. The auctions emphasize the importance of attracting people with special educational needs to social life, educational and educational processes. According to their claims, such people are treated as ordinary members of society, having equal rights, including for education, in a special way emphasizes their importance and usefulness for society. The works investigate and develop ideas for the possibility of attracting students with special educational needs in regular classes, where the training would be conducted in a team with ordinary students, under the usual conditions for the education of higher education institutions.

Researchers focus on the importance of association general and special education systems into one, which in the end gave rise to the formation of the so-called inclusive education system. Among domestic scientists it is advisable to allocate works M. Ye. Chaikovskyi, N. Haiduk, H. Herasym, R. Korzh, I.A. Malyshevska, T.I. Bondar, S. Kohut, T.S. Ostrianko, S.V. Nikolaienko, H.M. Romanova, and others [8-18].

Chaikovskyi M.Ye. explored the issue of the introduction of inclusive education in higher education institutions, disclosing the legal basis for inclusive education, the basic principles and prerequisites for the introduction of such training, the issue of the need for appropriate training of faculty and support staff to set up such processes in universities [1]. In particular, the author emphasizes the importance of introducing effective technologies and special methods of social and pedagogical work of teachers with students with special educational needs, as well as ensuring close and versatile cooperation with profile institutions of inclusive orientation.

Recommendation on the necessity of formation of inclusive competence in higher education institutions, volunteering promotion in the direction of development of activities for providing social services for people with special needs and invalids, improvement of methods and methods of work with entrants in order to involve inclusive education of students with special educational needs, etc. Haiduk N., Herasym H., Korzh R. studying the implementation of inclusive educational policy in higher education, indicate that the training of young people with special needs is directly related to the processes of their socialization and has a decisive influence on the further formation of such persons as individuals and their integration. in with thecommunity. The issues of the implementation of inclusive education policy in higher education institutions werethoroughly investigated , the conceptual foundations and main principles of the implementation of inclusive education policy were determined and grounded on the example of Lviv Polytechnic [8].

Scientists emphasize the importance of developing a mechanism for the implementation of inclusive education in institutions of higher education and the formation of its normative support. Haiduk N., Herasym H., Korzh R. substantiated the main provisions of the Accessibility Service "Without Limits" regarding the possibilities of studying at the Lviv Polytechnic National University in the context of the implementation of inclusive education. According to its concept, the Service "Without Restrictions" was created and operates with the aim of: "ensuring the continuous support of the process of training students with special needs who require special conditions for educational services in accordance with the signed Sustainable Development Agenda for the period up to 2030 (Transforming Our World: The 2030 Agenda for Sustainable Development) and the UNAims number 4 "Providing a comprehensive and equitable quality education and encourage lifelong learning opportunities for all" [19].

Thus, the main task of the Unrestricted Access Service at the Lviv Polytechnic National University is to: "ensure the continuous support of the educational process of students with disabilities who need special conditions for educational services, the formation of inclusive consciousness, in particular understanding of the problem of the existence of people with invulnerability in the educational environment " [8]. The authors developed and presented a comprehensive system of providing inclusive educational services at Lviv Polytechnic National University, which envisages the transformation of the teaching environment, teacher training, work in the community and a range of services for students with disabilities. Malyshevska I.A. analyzing the foreign experience of inclusive trends in education, examines the peculiarities of the introduction of inclusive education in Canada and the United States, the modernization of the system of special education , the problem of the development of inclusive education, etc. [9].

The author notes that inclu- sion is "a demonstration of social ability and the public desire to take into account the special individual needs and adapt to them, and not vice versa" [10]. Bondar T.I. is considering the creation of an inclusive educational environment in the system of higher education in Ukraine, examining its legal regulation, identifies the priority directions of state policy in this area [11]. Kohut S. examining the current state and prospects of inclusion in a higher school , analyzes the legislative framework, describes the main forms of the introduction of an inclusive model of education and identifies its main promising directions of development . As the scientist notes, training for people with special educational needs is carried out in the following forms:

- formation of special academic groups;
- learning together with all students in integrated groups without appropriate social support;
- studying in a single flow of students with specialist support (inclusive form);
- distance education, externa [12]. According to the author, the optimal is the model of inclusive education, because this model combines two important aspects. First , the social adaptation of people with special educational needs to the educational environment and society, and secondly , provides for comprehensive support from the institution of higher education, from the stage of access to the educational institution, and up to support for employment, including at the same time em ups pre-accession, accession and that training. Such integrated support should be provided by a specially created structural unit of the institution of higher education, whose powers include the formation of special conditions and ensuring the provision of inclusive education services. Ostrianko T.S. in his study [13] determines the state of readiness of scientific and pedagogical workers for work in the conditions of inclusive education, their relation to inclusive education, their perception and understanding of its contents, the difficulties which arise when providing inclusive educational services are revealed.

The author emphasizes the importance of the readiness of scientific and pedagogical staff to provide inclusive education services, while the urgent issue is the development of appropriate methodological support for the training of teachers themselves for work in an inclusive educational space. An extremely important point is the willingness of scientific and pedagogical staff to work with students with special educational needs and disabilities, their personal approach to such training, the perception of such students and the formation of a correct attitude to this situation. The readiness of teachers to introduce special pedagogical technologies into the educational process and readiness for their use is also important. The author's studies have shown the teachers' readiness to work with students with special needs and their positive attitudes, but they need help in getting the skills of cooperation with such students and establishing communication with them. According to the results of the survey, it has been established that the essential condition for the formation of an inclusive higher education system is the proper material and technical basis and appropriate methodological provision of the process of providing inclusive education services for people with special educational needs. An equally important prerequisite is to increase the level of qualification of teachers in the context of work in conditions of inclusion. The results of the survey conducted by the researcher showed a high level of knowledge of scientific and research staff in the field of inclusive education, its legal provision and the social aspect, which adequately demonstrates the awareness of contemporary educational trends and the desire to adapt to the current new conditions that are dictating the present .

Nikolaienko S.V. developed a model for the formation of appropriate readiness for teachers to introduce and useinnovative educational and pedagogical technologies and the development of such readiness. At the same time, the author distinguishes the main stages of teaching activities of teachers, namely: diagnostic and motivational; activity-integration;reflexive correction; consolidating and transforming. SV Nikolayenko in a study [14] considers the readiness for introduction and use of innovative educational and pedagogical technologies as a definite set of motivational-target, content, organizational-activity, reflection of o-integration components. Thus, the author analyzing the problem of readiness of scientific and pedagogical workers for inclusive education emphasizes the importance of their technological readiness for the introduction of innovative educational technologies in higher education. Romanova H.M. in ECS she was oboti [15] examines the issues of teaching and pedagogical technologies, which focus on the normative activity of teachers who, in her opinion, are the most effective ways of educational work, based on the criteria of optimality. Regarding the legal aspect, the legal basis for the provision of appropriate education for people with special needs is:

- The Constitution of Ukraine;
- Law of Ukraine "On Higher Education in";

- Law of Ukraine "On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine";
- Law of Ukraine "On Rehabilitation of Persons with Disabilities in Ukraine";
- Ministry of Education and Science "On approval of the Action Plan for implementation of inclusive education in secondary schools are taught for 2009-2012";
- Decree of the President of Ukraine "On Priority Measures for Creating Favorable Living Conditions forPersons with Disabilities";
- Order of the Ministry of Education and Science of Ukraine "On Approval of the Concept for the Development of Inclusive Education";
- Decree of the President of Ukraine "On Approval of the National Strategy for Human Rights";
- Decree of the President of Ukraine "On measures to ensure the priority development of education in Ukraine";
- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Regulation on the Inclusion and Resource Center";
- Cabinet of Ministers of Ukraine " On approval of the organization of inclusive education in secondary schools " and other [20- 32].

The Law of Ukraine "On Higher Education" regulates the organizational and legal principles of the functioning of the higher education system of Ukraine. It provides for the creation of favorable conditions for the functioning of higher education institutions and their interaction with state authorities, other structures and organizations in order to provide high-quality educational services, training of highly competitive specialists for the labor market, self-fulfillment of the person and development of human potential. According to the Law, state policy in the field of higher education is based on the general principles:

- sustainable development of society through the creation of appropriate conditions for lifelong learning and Mr. idhotovky competitive human capital;
- general availability of higher education;
- independence in obtaining higher education;
- international integration of the higher education system;
- support from the state for the training of specialists with higher education;
- the transfer from the state of institutions of higher education;
- state support for educational, scientific and innovative activities [21].

The Law of Ukraine and "On Higher Education" states that one of the main tasks of institutions of higher education is to provide special support for the axis b with special needs or disabilities in order to ensure the formation and organization of an inclusive educational space. A compulsory point is to ensure the free access of people with special needs to the infrastructure of educational institutions [21].The approved "Concept of the Development of Inclusive Education" defines the main tasks and principles of the development of inclusive education, regulates its legal basis , outlines the expected results at the national level [26].

Its main goal is to determine the priorities of Ukraine in the field of inclusive education, to ensure the legitimate rights of its citizens with special educational needs, as well as to develop and further improve the education system in Ukraine in this direction [11]. The main tasks of the development of inclusive education in accordance with the approved "Concept of the development of inclusive education":

- "improvement of normative-legal, scientific-methodical, financial and economic provision, focused on the introduction of inclusive education;
- introduction of innovative technologies in the context of inclusive form of claim idhodu and models for special education services for children with special educational needs, including those with disabilities;
- formation is developing educational yuchoho environment for children with special educational needs by providing psycho-educator ichnoho, copper chno -sotsialnoho support;
- introduction of an inclusive model of education in general educational institutions taking into account the needs of society;
- providing access to the social environment and educational facilities, developing and using special educational and teaching support, rehabilitation means of training;
- improving the system of claim idhotovky and retraining of teachers, working in conditions of inclusive education;
- involvement of parents of children with special needs to participate in educational and rehabilitation process in order to claim idvyschennya efficiency" [26].

The generally accepted guidelines for the development of inclusive education in accordance with the approved "Concept for the Development of Inclusive Education":

- "Science (development of theoretical and methodological foundations of inclusive education, software and methodological tools, analysis and monitoring of the results of the introduction of inclusive education, assessment of the effectiveness of technologies used to achieve a positive result, conducting independent expertise);
- consistency (ensuring he ivnoho access to quality education for children with special needs);
- variability, correction direction (the organization personally oriented learning process together with remedial devel vayuchoyu work to meet social ialno and educational needs, creating conditions for social and vocational rehabilitation, integration into society of children with psyhofi za chnoho development, including children- disabled);
- individualization (personality oriented exercise (individual, differentiated Mr idhodu));
- Social responsibility for the family (upbringing, learning and development of the child, creation of proper conditions for the development of its natural abilities, participation in the educational and rehabilitation process);

- interdepartmental integration and social partnership (coordination of actions of various departments, social institutions, services in order to optimize the educational integration of children with special educational needs)" [26].

Regarding legal regulation at the international level, the issue of inclusive education is regulated by the United Nations Convention on the Rights of Persons with Disabilities, which states that the right of people with disabilities to education should be implemented on the basis of equality of access to all levels of inclusive education throughout life [31].

In accordance with Article 24 "Education" of the UN Convention "On the Rights of People with Disabilities": "States Parties recognize the right of persons with disabilities to education. For the realization of this right, without discrimination and on the basis of equality of opportunity, States Parties shall ensure inclusive education at all levels and throughout their life-long learning, while seeking:

a) the full development of human potential, as well as the sense of dignity and self-esteem and the strengthening of respect for human rights, fundamental freedoms and human diversity;

b) to the development of the personality, talents and creativity of persons with disabilities, as well as their mental and physical abilities in the fullest extent;

c) Enabling persons with disabilities to participate effectively in the life of a free society. In exercising this right, States Parties shall ensure that:

a) persons with disabilities were not excluded because of disability from the general education system;

b) Persons with disabilities had equal access to inclusive, quality and free primary and secondary education at their places of residence;

c) Ensuring reasonable accommodation tailored to individual needs;

d) Persons with disabilities receive the necessary support within the general education system to facilitate their effective learning;

e) effective measures to organize individualized support were taken in conditions that maximally contribute to the learning outcomes and social development, in line with the goal of full coverage. States Parties provide persons with disabilities with the opportunity to absorb vital and social skills in order to facilitate their full and equal participation in the educational process and as members of the local community. States Parties shall take appropriate measures in this regard, in particular:

a) promote the acquisition of the Braille alphabet, alternative fonts, reinforcement and alternative methods, communication methods and formats, as well as orientation and mobility skills, and support peer support and mentoring;

b) promote the acquisition of sign language and the promotion of the linguistic identity of the deaf;

c) Ensure that the training of persons, in particular children who are blind, deaf or blind, is carried out with the help of the most suitable for persons with disabilities, the

languages, methods and means of communication, and in an environment that maximizes the learning of knowledge and social development. In order to facilitate the realization of this right, States Parties shall take appropriate measures to attract teachers and, in particular, disciples who have a sign language and / or Alphabet of Braille to work, and to train specialists and staff working at all levels of the education system . Such training covers education in disability issues and the use of suitable reinforcement and alternative methods, communication methods and formats, teaching methods and materials to support people with disabilities.

States Parties shall ensure that persons with disabilities have access to general higher education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided for persons with disabilities" [31].

In accordance with article 27 "Labor and Employment" of the UN Convention "On the Rights of Persons with Disabilities": "States Parties recognize the right of persons with disabilities to work on an equal basis with others; it includes the right to earn a living for work freely chosen by, or freely agreed upon by, a person with disabilities, in a situation where the labor market and the working environment are open, inclusive and accessible to persons with disabilities.

States Parties shall ensure and encourage the implementation of the right to work, in particular those who receive disability during work, by taking, including through legislation, appropriate measures aimed, in particular, at the following:

a) The prohibition of discrimination on the basis of disability with regard to all matters relating to all forms of employment, including conditions of employment, hiring and employment, job security, promotion and safe and healthy working conditions;

b) the protection of the rights of persons with disabilities, on an equal basis with others, on just and favorable conditions of work, in particular equal opportunities and equal pay for work of equal value, safe and healthy working conditions, in particular protection from harassment, and satisfaction of complaints;

c) Ensuring that persons with disabilities are able to exercise their labor and trade union rights on an equal basis with others;

d) Enabling persons with disabilities to have effective access to general programs of technical and vocational guidance, employment services and vocational and continuing education;

e) the expansion of the employment opportunities of persons with disabilities and promotion of the labor market in the labor market, as well as assistance in the search, reception, preservation and restoration of work;

f) the expansion of opportunities for individual labor, entrepreneurship, the development of cooperatives and the organization of their own business;

g) employment of persons with disabilities in the public sector;

h) Encouraging the employment of persons with disabilities in the private sector through appropriate strategies and measures that may include positive action programs, incentives and other measures;

i) providing for persons with disabilities reasonable accommodation of the workplace;

j) encouraging the acquisition of disability by work experience in an open labor market;

k) Encouraging programs for vocational and qualification rehabilitation, job preservation and return to work for persons with disabilities. States Parties shall ensure that persons with disabilities are not held in slavery or servitude and are protected on equal terms with others from compulsory or compulsory labor " [31] .

In accordance with the approved standards for the provision of social services, inclusive education involves the need for higher education institutions to provide appropriate architectural environments, appropriate conditions in the premises, the availability of certain accompanying auxiliary equipment for training, special vehicles, etc. [32].

The general aim of all normative legal documents regulating the system of inclusive education is to form a general favorable inclusive environment for the reception of persons with special needs for quality educational services and to ensure their appropriate pedagogical, methodological and socio-psychological support. As well as removing barriers (architectural, infrastructure, technical, social, informational and psychological) that hinder the development of people with special needs receiving educational services.

Review papers [1- 32] points to the limited disclosure of the problem of priority areas of strategic development of inclusive education in high school and characteristics of the formation and organization of an inclusive environment.

The aim of the study is to improve theoretical and methodological provisions and to develop scientific and practical recommendations for the strategic development of inclusive education in higher education institutions.

The research is aimed at developing recommendations for strategic development of higher inclusive education, identifying the main characteristics of the inclusive educational environment of the higher educational institution and the areas of support for the training of students with special educational needs in the context of higher inclusive education on the basis of the study of socio-legal aspects.

It is widespread that inclusive education is only teaching children with certain diagnoses, diseases, including disabilities, in the classes of general educational institutions. However, it is worth pointing out the falsity of this statement. According to Ukrainian legislation, a person with special educational needs is "a person who needs additional permanent or temporary support in the educational process in order to ensure her right to education".

Therefore, the category of persons with special educational needs includes not only persons with disabilities, but also internally displaced persons, children -begins and children who need additional and temporary protection, persons who acquire specialized education and / or can accelerate the content of educational subjects, persons with special language educational needs (for example, those who acquire general secondary education in languages not belonging to the Slavic language group), etc. [33]. All institutions of higher education must be inclusive in their educational philosophy, which is manifested in the willingness to provide quality educational services to each child and at any time to take it for study, while striving to create the most comfortable and favorable environment for the development of its personal potential.

Creating a favorable environment is inclusive not only to overcome technical barriers abezpechenni accessibility, the formation of the inclusive classes, but , above all , to Increase and the professional competence of scientific pedaho tech workers and destroying stereotypes of learning difficulties and peculiarities of education for persons with special needs. Inclusive education is mainly based on the fact that ordinary students study in the regular classroom , but some of them use special supplementary devices or educational equipment, such as the Braille font. In this class, joint training is being established without any separation of students. Inclusion (from Inclusion - Inclusion) - a process of increasing the participation of all citizens in social life. This is a policy and process that enables all children to participate in all programs, including those in the educational system. Inclusive education is a system of educational services, based on the principle of ensuring the basic right of children to education and the right to obtain it at the place of residence, which envisages the education of a child with special educational needs in a general education institution [34]. One of the main tasks of inclusion is the response to a wide range of educational needs in higher education institutions and beyond. Conceptually inclusive education is based on the principles that completely exclude discrimination against children and ensure equal treatment without any discrimination, to all without exception , while creating special conditions for children with special educational needs.

Conceptual Principles for Higher Inclusive Education:

1) all students must study together in all cases where this is possible, despite certain difficulties or differences existing between them;

2) institutions of higher education should recognize and take into account the diverse needs of their students, including those with special educational needs, by agreeing on the different types and rates of learning;

3) the provision of quality education services should be done through the development of appropriate curricula, the development of organizational measures, the development of a teaching strategy, the selection of appropriate teaching and learning technologies, the use of all the necessary resources and their partnerships with their communities;

4) students with special educational needs has provided a full range of services including any additional assistance that may be required to ensure their successful year learning process. They are the most effective means of guaranteeing solidarity, complicity, mutual respect, understanding between students with special educational needs and other peers of their age [34].

Inclusive approach to providing educational activities creating conditions in which all without exception participants in the educational process of higher education institutions with the opportunity of equal access to to obtain education services , including students with special educational needs.

The results of the study suggest that inclusive higher education has several advantages, namely:

- with the help of communication with peers, cognitive, motor, linguistic, social and emotional development of students with special needs improves;
- ordinary peers for students with special needs play a role in behavioral patterns;
- occurs at functional ownership student s and special needs of new skills and nave chkamy;
- in the educational process is conducted orientations I strengths qual those abilities and interests of students and special needs;
- students and special needs there Practical Option ist establish ichi friendships and with peers and take active participation b in social and public life;
- ordinary students gain skills naturally tolerant to perceive and relate to human differences , other special needs students;
- all members of the team learn sympathy, co-operation and receive skills to establish and maintain friendly relations with people with special needs;
- scientific and pedagogical staff of higher inclusive education have an opportunity to better understand the individual characteristics of students;
- there is an opportunity seized ting and innovative pedagogical 's technology and techniques that promotes students considering her 's individual needs and so on.

As noted above, the system of providing educational services is based on inclusive education , which is based on the implementation of the equality of the right to education. At the same time, inclusive education consists not only in attracting people with special needs to the educational process in institutions of higher education, but also adapting them to the usual educational process. The prerequisites for this are the creation of appropriate educational programs and curricula adapted to inclusive education. An important point is the introduction of individualized training, the use of appropriate forms and methods of working with students with special needs. In institutions of higher education, inclusion must provide appropriate organizational, pedagogical, socio-cultural and psychological conditions for people with special needs and disabilities [10].

Inclusiveness is a kind of demonstration of the ability of society and its desire to take into account the special needs of others and to be able to adapt to them. In countries with high social standards, inclusive education provides people with special needs and disabilities with access to lifelong educational services at a level with all [10].

In Europe and America, the model of inclusive education has long been implemented, while in society, people with special needs are considered as actors of interaction, for which the greatest possible opportunities for integration into society are created, and not only as persons who require assistance and special support [12].

Study of the materials on the research problem [1-34] made it possible to distinguish a number of characteristics of the inclusive educational environment of a higher educational establishment, namely:

- simple p for inclusive education of students with special educational needs, which is organized in such a way that all barriers of architectural, technical and informational nature are eliminated , thus providing the possibility of unimpeded access to all infrastructure facilities necessary for training and life as a whole;
- favorable socio-psychological climate that promotes the personal development of people with special educational needs and their social adaptation;
- favorable conditions for studying and obtaining quality education for people with special educational needs , which is manifested in appropriate educational and technical support, technical support of the educational process, appropriate training of the teaching staff, working with such special students, etc.

The conducted research on the basis of the processed material [16] made it possible to determine the main directions of support for the training of students with special educational needs in higher inclusive education:

1) technical support, provides unimpeded access to information, knowledge and compensates for the relevant functional limitations;
2) pedagogical support, provides perception of educational material by using the best forms, methods and technologies of teaching;
3) social support, provides proper social adaptation and interaction;
4) medical support, ensuring health and life;
5) psychological support, providing maintenance of the corresponding psychological and emotional state.

The study and analysis of literary sources and the legal framework on the problem [1-34] allowed the formation of priority directions for the formation and development of inclusive education for higher education institutions.

Recommended directions of strategic development of higher inclusive education:

1. Formation of the appropriate material and technical base for the creation of an inclusive space that would provide the necessary preconditions for the provision of inclusive educational services (provision of free access for students with special educational needs to buildings, premises, etc., provision of educational audiences and other premises used in educational process, necessary equipment, special equipment and devices, etc.).

2. Formation of educational and methodological support of an inclusive educational process taking into account the peculiarities and specifics of inclusive education (provision of expanded and unimpeded access to educational information resources for students with special needs, development of inclusive educational programs, introduction of the practice of teaching the disciplines of the corresponding methods of work and mechanisms interaction with students with special educational needs).

3. Increase of the inclusive competence of scientific and scientific-pedagogical workers in order to provide high-quality inclusive educational services (holding for the faculty, auxiliary and administrative staff of the corresponding trainings, courses, occupations, acquaintance with the information on the domestic and foreign experience of the organization of inclusive education, formation of readiness of scientific and pedagogical workers for introduction of inclusive education, etc.).

4. Formation of a favorable psychological climate for the introduction and development of inclusive education (volunteer work with students with special educational needs, creation of conditions for the entry of such students into collectives, establishment of collective interaction, provision of favorable conditions for self-development and self-realization, creation of a friendly atmosphere of support and help).

2. Development of the inclusiveness of education and business in Ukraine and the introduction of an inclusive audit of institutions as the basis for the socialization of the national economy.

A key feature of the socialization of the national economy is the formation of prerequisites for the free and open development of each person as a person. Socialization is aimed, first of all, at the development of individual abilities of a person in the process of learning and realizing his knowledge, skills, creative potential in the system of economic relations between an employee and the subject of entrepreneurial activity for the purpose of both personal self-realization and income generation during work activity. The National Strategy for the Development of Education in Ukraine states that education should become a strategic resource for improving people's well-being, ensuring national interests, strengthening the authority and competitiveness of the state on the international scene. However, the state and trends in educational change do not meet the demands of society, including openness and accessibility. Globalization processes have formed the demand for intelligence and knowledge, which determines the need to improve the quality of the system of higher education, especially in the direction of development of educational and scientific activities.

The problem of the socialization of the national economy was researched by various scholars in Ukraine and abroad, among them: M. Bublyk [35, 36, 38, 39, 41, 42], A. Karpyak [35, 41], O. Rybytska [35, 36, 38, 39, 41], F. Pyke [37], N.Shpak [38], and others. Prominent scientists R. Tulder [40], Verbeke A. [40], Strange R. O. [40] and others likewise considered the inclusive support of the development of the enterprise and institutions.

In recent years, Ukraine has witnessed a positive trend in the growth of funding for research and scientific and technical work. The real amount of financing of scientific activity in the system of higher education in the period of 2010 - 2018 does not ensure its development. The largest share in the structure of sources of funding for the scientific activity of higher education institutions belongs to the state budget - 65%, enterprises of the business sector - 15%, foreign sources - 6%. If we analyze the amount of funding for research expenditures by sector of activity, in 2016 the public sector accounts for 32%, for entrepreneurship - 62%, for higher education - 6%. As we see, the share of funding for research spending in the field of higher education is the smallest.

Compare the share of spending on research activities in the GDP of the EU and Ukraine (Table 1).

Table 1. Share of research and development expenditures in GDP,% [43]

Countries	Period					
	2010	2011	2012	2013	2014	2015
EU 28	1,93	1,97	2,01	2,03	2,04	2,03
Bulgaria	0,56	0,53	0,60	0,63	0,79	0,96
Estonia	1,58	2,31	2,12	1,73	1,45	1,50
Spain	1,35	1,33	1,29	1,27	1,24	1,22
Latvia	0,61	0,70	0,67	0,61	0,69	0,63
Lithuania	0,78	0,90	0,89	0,95	1,03	1,04
Germany	2,71	2,80	2,87	2,82	2,89	2,87
Poland	0,72	0,75	0,88	0,87	0,94	1,00
Romania	0,45	0,49	0,48	0,39	0,38	0,49
Slovakia	0,62	0,66	0,80	0,82	0,88	1,18
Slovenia	2,06	2,42	2,58	2,6	2,38	2,21
Hungary	1,15	1,19	1,27	1,39	1,36	1,38
Czech Republic	1,34	1,56	1,78	1,90	1,97	1,95
Ukraine	0,75	0,65	0,67	0,70	0,60	0,55

According to official statistics, we see that the share of research expenditures in GDP of the EU countries is on average 2.03%, while in Ukraine it is only 0.55%, which is 1.48% less. Taking into account the peculiarities of constructing trend models for forecasting economic phenomena, presented in [44], we will use trend models with low determination coefficients ($0.65 < R2 < 0.95$), where the most important result is not so much the value of

the projected indicator, but its tendency. Therefore, in Fig. 1. Trend models of the share of expenses for carrying out scientific researches and developments in relation to GDP of the country have been constructed, which we determine, that other equal conditions in the crane-leader - Germany, such indicator will continue to grow. Sufficient financing and increasing trends in science financing in Germany make this country more innovative and more technologically competitive at the regional (European) level. The country-outsider-Romania also has the potential and general tendencies to increase the share of funding for research and development in the country's GDP, reflecting the significance of science for the government of the country, in view of its future.

A clearly expressed tendency to reduce the share of spending on research and development in relation to Ukraine's GDP reflects the low interest of the government in the development of science, the growth of its own achievements through the implementation of scientific developments. In the near future, domestic science with high probability will not be sufficiently enough, which will not give it a financial basis for development.

There is a tendency to improve the quality of educational services as a factor in the impact of socialization and the implementation of an effective state policy on the formation of conditions for the development of an inclusive system of higher education, where the disclosure of the potential of each individual. This problem becomes particularly acute in the conditions of the rapid development of civil society.

Only in the last two years Ukraine has developed a favorable regulatory environment for the creation and development of inclusive education, where the impact of socialization on the individual is most strongly manifested. This necessitates the formation of an inclusive environment in each organization, as a consequence, the need to form an appropriate system of indicators for assessing the inclusiveness of its internal and external environment is growing.

Activation of external and internal interaction with society in order to achieve competitive advantages in the market of educational services leads to increased socialization. The internal direction of the social orientation of any institution (enterprise, company or institution of higher education) is the development of democratic values, the introduction of civil society on the basis of national priorities, ensuring the prospects for personal development.

The external direction of the social orientation of the organization is more aimed at strengthening cooperation with the society, public organizations, public administration and local self-government, internalization of ties with the world, etc. The socialization of institutions and organizations, civil society institutions should be included in the list of their strategic directions of development and reflected in their strategic goals and missions.

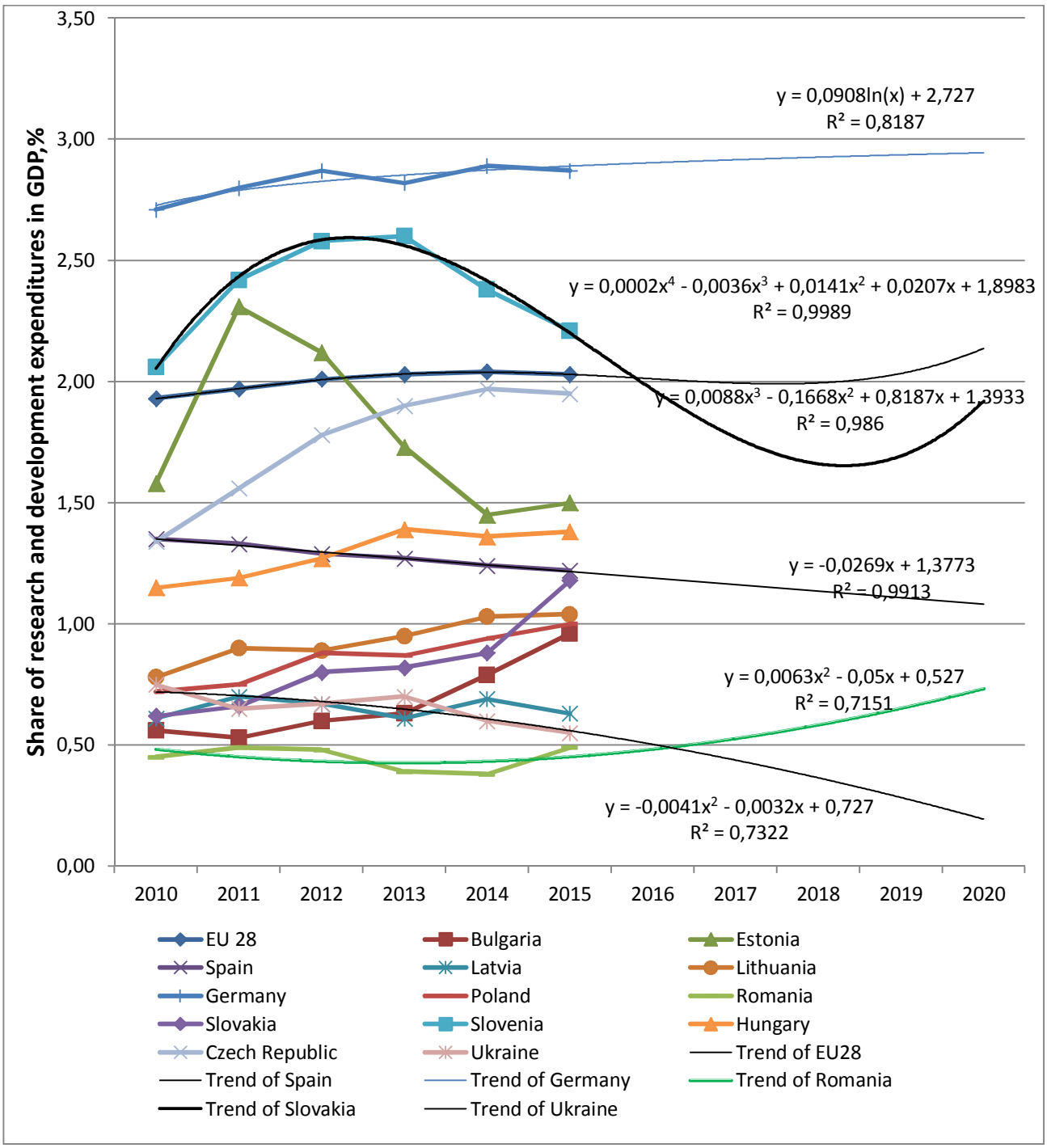

Fig. 1. Dynamics of the share of research and development expenditures relative to the GDP of each country and the trend models for the leaders of Germany, Slovakia, Spain and the outsider of Romania and Ukraine until 2020

Note. Suggested by the authors

Having analyzed the latest research [45-49], which substantiates the theoretical and methodological and practical principles of strategic development of institutions of higher education in the conditions of increasing socialization of the national economy, we propose to include "Development of the social orientation of the institution" in the strategic directions.

We recommend dividing this strategic direction into at least two strategic goals:

1. Formation of a favorable environment for the development of the external vector of the social orientation of the institution.

2. Formation of a favorable environment for the development of the internal vector of the social orientation of the institution.

Accordingly, we recommend that each strategic objective be divided into several strategic objectives. Thus, the strategic objective "Formation of a favorable environment for the development of the external vector of the social orientation of the institution" can be divided into 5 strategic tasks:

1. Promoting cooperation with the public, public organizations, public administration and local self-government bodies.

2. Extension of the institution's presence in the media, social networks.

3. Strengthening the internationalization of the institution's ties with the world.

4. Cooperation with representatives of international associations of the relevant sector of the economy.

5. Promotion and encouragement of various forms of attraction of funds not prohibited by law.

Accordingly, the strategic objective "Formation of a favorable environment for the development of the internal vector of the social orientation of the institution" can be divided into the following 5 strategic tasks:

1. Creation of favorable conditions for activation of participation of young workers in the management of the institution and in public life, the formation of broad support for informal groups that disseminate high moral, ethical, social and social values.

2. Contribute to the formation of patriotic values, preservation, enhancement, propagation of national cultural traditions through the development of a system of cultural and educational centers (units of the institution) and ensuring the participation of employees of the institution in amateur performances.

3. Promotion of a healthy lifestyle of employees of the institution.

4. Formation of readiness and competence of employees to implement an inclusive environment in an institution.

5. Obtaining grants aimed at developing projects for the development of an inclusive environment in an institution.

The most difficult to understand and implement are the last two paragraphs of the strategic objectives of the strategic goal "Formation of a favorable environment for the development of the internal vector of the social orientation of the institution." Modern institutions are not ready not only for their realization, but also for understanding. Therefore, let us list the strategic tasks for this strategic direction, their performance indicators and the list of responsible executives on the example of a higher education institution.

Table 2 shows the structure of strategic measures for the strategic task "Creation of an inclusive space" for a higher education institution that belongs to the strategic direction "Expanding the social orientation of higher education institution".

Table 2. The structure of the strategic task on the socialization of higher education institutions and indicators of its effectiveness

Strategic Goal	Strategic task	Strategic events	Performance indicator	Responsible Artists (possible options)
Formation of a favorable environment for the development of the internal vector of social orientation of the institution of higher education	1. Creating an inclusive space	1.1. Formation of readiness of scientific and pedagogical workers (NPP) for introduction of inclusive education:	Carrying out N-th survey by 2019	Vice-rector for relevant work, Department of socio-humanitarian direction, service availability to training, etc.
		- To disseminate information about the domestic and foreign experience of the organization of inclusive education	carrying out N-oh (7, 14, 21) seminars, conferences, symposiums	
Formation of a favorable environment for the development of the internal vector of social orientation of the institution of higher education	1. Creating an inclusive space	1.2. Formation of the educational environment in conditions of inclusive education: - to improve the system of management of inclusive space;	creation of a volunteer service	Vice-rector for relevant work, Department of Social Humanitarian Aid, Service Accessibility to Study, Student Clinic, Faculty of Physical Education, etc.
		- to bring the Accessibility Service to the "No Limits" / "No Limits" from the department to the university level;	Implementation of the post of authorized person for students with special needs	
		- development of educational inclusive programs;	creation N (15 oh) educational inclusive programs through seminars, interdisciplinary conferences, meetings, etc. - development of	

Strategic Goal	Strategic task	Strategic events	Performance indicator	Responsible Artists (possible options)
			rehabilitation programs and organization of recreational and recreational activities in the system of physical education of students with special needs;	
		- to increase the inclusive competence of the NPP through the establishment of programs for the development of qualifications, seminars, trainings, interdisciplinary conferences, open lessons;	Creation N (5-oh) training programs, seminars, trainings, interdisciplinary consiliums, open lessons	Vice-rector for relevant work, Department of Social Humanitarian Aid, Service Accessibility to Study, Student Clinic, Faculty of Physical Education, etc.
		- improve the VNS and university website for students with special educational needs;	Magnifier, sound support	
		- to familiarize students with special educational needs in matters of vocational guidance and preparation for admission to NU "Lviv Polytechnic"	carrying out N (4-oh) meetings with entrants	
		- involve public and state organizations in cooperation in the field of educational environment formation under the conditions of inclusive education;	invitation of public and state organizations to cooperate	

Strategic Goal	Strategic task	Strategic events	Performance indicator	Responsible Artists (possible options)
		1.3. Obtain grants aimed at developing projects for inclusive education in two areas: - to participate in grant programs for the development of student start-ups;	increase in the number of participants in grant programs for the development of student start-ups	Vice-rector for relevant work, Department of socio-humanitarian direction, service availability to study,
		- increase in the number of applications for grants for students with special educational needs	increase in the number of applications for grants for students with special educational needs	

Note. Suggested by the authors

From Table 2 it follows that the involvement of scientific and scientific-pedagogical workers (NNPP) in the introduction of inclusive education involves the introduction of an appropriate mechanism for their preparation and the establishment of the Accessibility Service for learning opportunities "Without Restrictions". Implementation of this mechanism involves the implementation of a set of appropriate measures. First of all, it is necessary to investigate the attitude and readiness of NNPP to implement inclusive education on the basis of conducting social surveys. As a result of the social survey, you can obtain information on the awareness of the NPP on the peculiarities of the introduction of inclusive education, and this will allow them to assess their personal, professional, informational, and motivational readiness.

So, in order to introduce inclusive educational policy, the Lvivska Polytechnic National University has been given an important role in informing about the domestic and foreign experience of organizing inclusive education through seminars, conferences, symposia [50]. This, in turn, enabled the study and application of the latest world strategies, technologies and experience to improve the existing, development and implementation of new educational programs to support students with special educational needs.

In order to work in an inclusive education, we recommend, above all, to increase the inclusive competence of NNPP. To do this, create upgrading programs, conduct seminars, trainings, interdisciplinary conferences, open lessons that will enable them to get acquainted with new pedagogical technologies, establish contact with students with special educational needs, etc.

In order to familiarize students with special educational needs in matters of vocational guidance and preparation for admission to higher education institutions, we recommend the creation of a volunteer service, meetings with entrants. One of the priority issues for working with people with special educational needs is to improve the inclusive space management system. This involves the introduction of the post of the Commissioner for the Rights of Students with Special Needs, the creation of the Accessibility Service to the Learning Opportunities "Without Restrictions," or simply bringing to the upper level the subordination of the existing service, for example, from the department to the university level. It is important to involve public and state organizations in co-operation with a view to supporting and developing inclusive educational policies. Equally important is ensuring the development of projects for inclusive education on the basis of grants. It will motivate student youth with special educational needs to conduct research, organize startups with the participation of young people with special educational needs and to create opportunities for young people with special educational needs, etc.

Modern civil society not only needs to define the essence and place of inclusiveness in the management of enterprises and institutions, but requires the development of a system for assessing the level of inclusiveness of institutions. To this end, a system of audit of the level of inclusiveness of institutions should be developed, which has not been given due attention in researches of scientists and practitioners. Therefore, in order to justify the expediency of developing a level of inclusiveness and its audit system at enterprises and institutions, we will carry out:

1) to study the meaning and role of inclusiveness in managing enterprises and institutions;

2) to understand the peculiarities of the inclusiveness assessment in Ukraine and worldwide;

3) to analyze the standards, methods, and techniques of the inclusiveness assessment;

4) to explain the necessity to introduce an appropriate system of indicators for the internal and external environment inclusiveness evaluation within enterprises and institutions;

5) to design the inclusiveness level and the audit system of it within enterprises and institutions.

Every year more and more enterprises and institutions try to conform to the requirements of accessibility and openness for all the social groups. According to the State Department of Statistics, in 2016, 6.5% of the Ukrainian population comprise people with disabilities [51-55], although the unofficial sources maintain that in 2017, this level reached the point between 12 and 16%; in other words, one Ukrainian in eleven or even in eight has a disability. However, only 0.25% of the social institutions are accessible according to the international and state building codes [51], which means that our fellow citizens have no access to goods and services that we use in our personal and professional lives, for example, banks, schools, hospitals, churches, restaurants, cafeterias, local social services, courts,

drugstores, and a lot of other establishments and institutions that are vital for a decent life of a citizen of a European country.

After an unpleasant though not the first incident in a restaurant in Lviv, when Roman Kisliak was made to leave because he had cerebral palsy [53].], there was a Ukrainian project launched, which is called “Inclusive friendly”. In this case, the central issue is not the hostility of one establishment but the total unawareness of the Ukrainian population, a lack of understanding of the concept of inclusiveness, which is crucial for the creation of a new open society. Therefore, the unique project “Inclusive friendly” was created for the purpose of solving this problem, and it comprises providing a training series all around Ukraine for all volunteers. As the result, people acquire the skills of interaction with the people with disabilities, of service, escort, and a specific etiquette.

Within the framework of the project “Inclusive friendly”, there was over 100 workshops and lectures given in different regions of Ukraine. Having cooperated with a number of local and state enterprises and institutions, the project team discovered a growing interest in the inclusiveness level determination. Therefore, in order to introduce the inclusiveness audit through the development of the assessment technique for the inclusiveness level in Ukraine and abroad, there were key objectives declared:

1. To study the issue of a lack of inclusiveness in the Ukrainian society and in the public establishments in particular.

2. To study the best national and foreign experiences in assessing the levels of accessibility and inclusiveness within enterprises, state institutions, and public utilities.

3. To define the best technique for the inclusiveness level analysis, which will correspond the real state of affairs in Ukraine, for the purpose of giving a high-quality evaluation of the situation and providing practical recommendations.

4. To present the results and to conduct the analysis of enterprises and institutions.

The system of the inclusiveness level assessment within Ukrainian enterprises and institutions is the key concept for creating a unique mechanism for assessing the inclusiveness level in enterprises, for providing more accurate recommendations for creating of a better, more comfortable, and more inclusive environment in Ukrainian enterprises and in the country overall. The suggested assessment system includes a range of 0 to 100 points rounded to hundreds, where 100.00 is the highest mark possible. The inclusiveness level is evaluated according to six criteria: Inclusive Hospitality of Personnel, Inclusiveness of Personnel, Internal Accessibility, External Accessibility, Corporate Inclusive Culture, and Fines. For the assessment of the inclusiveness level, we suggest conducting audit according to the first five categories, which are marked, and the sixth category, which does not give additional points. The marked categories consist of subcategories so the total mark for the category is calculated as the sum of points for every subcategory. The inclusiveness level constituents are presented in details in Table 3, where according to a certain formula, all the points are calculated in a separate column.

Table 3. Components of the level of inclusiveness

Category	Maximum points	Formula of evaluation	Score by category
Inclusive Hospitality of Personnel	20	X*1.33	**26.67**
Inclusiveness of Personnel	1	X*20	**20**
Internal Accessibility	10	X*1.67	**16.67**
External Accessibility	10	X*1.67	**16.67**
Corporate Inclusive Culture	10	X*2	**20**
Fines	0	0	**0/- 38**
Total			**100**

Note. Suggested by the authors

For every category, the calculation of points is presented in details. For example, for the Inclusive Hospitality of Personnel, the highest level of which reaches 20*1.33=26.67 points, the calculation is presented in Table 4.

Table 4. Calculation of the Inclusive Hospitality of Personnel according to the Test

Number of the test	The correct answer
1	B
2	A
3	C
4	C
5	C
6	A
7	B
8	C
9	C
10	B
11	A
12	B
13	D
14	C
15	C
16	B
17	C
18	B
19	
20	

Note. Offered by the authors

After calculating the inclusiveness of the staff, its value can most probably reach 1 * 20 = 20 points. Formulas for calculating external accessibility, which can reach the highest of 10 * 1.67 = 16.67 points, are given in Table 5.

Table 5 Calculation of the external availability of an institution or company according to the data of the State Building Standards

Category	Criterion	Assessment		Maximum points
Adjoining territory – inclinations	On the adjoining territory, there have to be passes along the pavement without borders and with slight inclinations, which do not exceed 1:12, in all the places where a pavement crosses with a driveway to a yard, parking lot, garage, petrol station etc.	If inclination is 1:X, where X≤12	Point = 1.5	1.5
		If inclination is 1:X, where X≥12	Point = X/12*1.5	
Adjoining territory – pavement width	The width of pavement depends on the pedestrian traffic flow, but according to the current building codes, it should not be less than 1.5 meters.	If pavement width is X, where X≥1.5 meters	Point = 1.5	1.5
		If pavement width is X, where X≤1.5 meters	Point = X/1.5*1.5	
Adjoining territory – height of extraneous elements	To ensure safe and unobstructed passing for the people with visual impairment, there have to be no bushes or greenery on the sidewalk, there should be no branches, signs, or other objects lower than 2.1 meters.	If height is X, where X≥2.1 meters	Point = 1.3	1.3
		If height is X, where X≤2.1meters	Point = X/2.1*1.3	

Adjoining territory	There have to be no steps or holes on the sidewalk, and cracks between pavement plates or other elements should not exceed 1.3*1.3 centimeters. .	If there are no holes or cracks larger than 1.3*1.3 centimeters: Point = 1 If there are holes or cracks larger than 1.3*1.3 centimeters: Point = 0	1.2
Ramps	To ensure safe and unobstructed passing for the people in wheelchairs or with baby strollers, trolley trucks, or other trolleys, ramps should be installed in all the places where a pavement crosses with a car road of any type (a driveway to a parking lot, bus stop etc.).	If ramps are installed: Point = 2 If ramps are absent: Point = 0	2
Parking space	Parking lots near the service institutions should include no less than 10% (but at least 1 parking space) for the cars driven by people with disabilities.	There are ≥ 10%: Point = 1 There are ≤ X: Point = X/10 Absent: Point = 0	1
Parking space	The parking space for people with disabilities should be located in the closest proximity to the entrance into public places but not farther than 50 meters. These spaces should be wide enough to ensure the pass for a wheelchair. The way from the parking space to the entrance should have no barriers. That is why ramps between a parking lot and a sidewalk are required.	Closer than 50m: Point = 0.5 Farther than 50m, where X is the distance: Point = 50/X*0.5	0.5

Parking space	The minimum width of a parking space has to be 3.5 meters; for the wheelchair to pass between two cars at a parking lot, the interval has to be 1.00 to 1.50 meters.	If width is X, where X≥3.5 meters: Point = 0.5 If width is X, where X≤3.5 meters: Point = X/3.5*0.5	0.5
Outdoor signs	The entrance to an establishment/organization should have visual signs and tactile indicators for people with visual impairments and concentration problems.	Present: Point = 0.5 Absent: Point = 0	0.5
Total	**10**		

Note. Suggested by the authors

The calculation of the Internal Accessibility, which can reach the maximum level of 10*1.67=16.67 points, is presented in Table 6 in details.

Table 6 Calculation of the Internal Accessibility

Category	**Criterion**	**Assessment**	**Maximum points**
Threshold	Thresholds should be no higher than 2.5 cm.	If X≤2.5: Point = 0.3 If X≥2.5: Point = 0	0.3
Width of doors	All the doors in the building should be at least 85-centimeter wide.	If X≤85 cm: Point = 1.3 If X≥ 85 cm: Point = 1	1.3
Difference of levels	In the buildings and where the floor levels differ, in particular, from the main entrance stairs to the elevator lobby, ramps are to be installed. The height of each ramp should not exceed 0.8 meters, the inclination of it should not exceed	Yes: Point = 0.2 No: Point = 0	0.2

	1:12. If the ramp height is less than 0.2 meters, the inclination can be 1:10.		
Difference of levels	The maximum height of each ramp should not exceed 80 centimeters if the inclination is not steeper than 6% (1:12).	Yes: Point = 0.2 No: Point = 0	0.2
Difference of levels	In the places where the floor levels are more than 0.04-meter different, between the horizontal surfaces of passways and floor, ramps and stairs should be constructed.	Yes: Point = 1 No: Point = 0	1
Difference of levels	At the beginning and at the end of every ramp, there have to be a horizontal ground installed, which is as wide as the ramp itself and at least 1.5-meter long. If the ramp changes its direction, the horizontal ground has to be wide enough to ensure the ability for a wheelchair to turn. The size of this ground has to be at least 1.5*1.5 meters.	Yes: Point = 0.2 No: Point = 0	0,2
Difference of levels	The bumpers of at least 0.05 meters of height and the fence of at least 0.9 meters of height have to be installed at the edges of the ramp and of the ground, which are not tangent to the wall.	Yes: Point = 0.2 No: Point = 0	0.2
Difference of levels	Handrails have to be installed at both sides of the ramp in parallel to its surface at the height of 0.9 and 0.7 meters (for the preschool age children those should be 0.5-meters high). They have to have an elongation of at least 30 centimeters.	Yes: Point = 0.2 No: Point = 0	0.2
Difference of levels	Handrails have to be with smoothly rounded ends, which are securely fixed to the floor, walls, or racks. The ramp has to be at least 1.20-meter wide and no narrower than 1 meter.	Yes: Point = 0,1 No: Point = 0	0.1

Accessible toilet	All the establishments of public, administrative, or industrial purpose at the estimated number of visitors of 50 people or at the estimated duration of stay of 1 hour per person should have public toilets. Besides, there have to be at least one toilet cubicle accessible to all the social groups and furnished with all the auxiliary devices in accordance with the state building codes. (Chart 1)	Yes: Point = 1.5 No: Point = 0	1.5
Accessible toilet	Mirror has to be located at the level accessible to the people in wheelchairs.	Yes: Point = 0.4 No: Point = 0	0.4
*Gestural language (during the oral interaction with the clients)	At least one staff member has to know the gestural language at the basic level (they have to know how to say “Good afternoon”, “May I help you?”. “Excuse me, write it down please”, “Thank you”, “Goodbye” with the help of gestures). *Is evaluated by an assessment team member.	Present: Point = 1.5 Absent: Point = 0	1.5
Indoor tactile guide	In the building, there has to be an indoor tactile guide from the main entrance to the service desk and to the restroom.	Present: Point = 0.7 Absent: Point = 0	0,7
Information materials written in Braille	There has to be at least one copy of information materials written in Braille.	Present: Point = 1.5 Absent: Point = 0	1.5
Information desk	Information desk should be at the level accessible to the people in wheelchairs.	Yes: Point = 0.7 No: Point = 0	0.7
		TOTAL	**10**

The calculation of the Social Responsibility, which can reach the maximum level of 10 points, is presented in Tabl. 7 in details.

Table 7 Calculation of the Corporate Inclusive Culture

Category	Criterion	Assessment	Maximum points
Code of conduct	The organization has an internal code of conduct regarding the inclusiveness of personnel.	Present: Point = 1 Absent: Point = 0	1
Personnel training	During the hiring process, new employees receive an initial training approved by an expert specialized organization*. The document has to be presented to the assessment representative.	Present: Point = 2 Absent: Point = 0	2
Personnel training	Personnel receives internal or external training in communication and interaction with people with disabilities. *Confirmation should be presented.	Yes: Point = 1 No: Point = 0	1
Contractors	The company/institution buys services of a contracting organization, the owners of which are people with disabilities.	Yes: Point = 0.5 No: Point = 0	0.5
Personnel volunteering	Employees participate in volunteering at least once during the current period.	Yes: Point = 1.5 No: Point = 0	1.5
Information on the organizational support of the social campaigns and projects	The company gives the information on the organizational support of the social campaigns and projects during the current period. * Inclusiveness development projects **Should be confirmed *** Non-profit projects/social businesses	Yes: Point = 0.5 Yes*: Point = 1.5 No: Point = 0	2
Financial support of the social campaigns and projects	The company gives the information on the financial support of the social campaigns and projects during the current period. * Inclusiveness development projects **Should be confirmed *** Non-profit projects/social businesses	Yes: Point = 0.75 Yes*: Point = 2 No: Point = 0	2
		TOTAL	**10**

Note. Suggested by the authors

The calculation of the Fines assessment, which does not add but subtracts points, is presented in tabl. 8 in details.

Table 8. Calculation of the Fines

Category	Condition	Formula		Point
Holders for crutches	There have to be holders for crutches ***if there is a waiting zone.***	Yes	Point = 0	- 1
		Violated	Point = - 1	
Accessible toilet	Closed/ Not working/ Not used for purpose intended	Yes	Point = 0	- 3
		Violated	Point = - 3	
Yellow tape	If there is a glass door, it has to be marked with a yellow tape at the level of 1.5 meters.	Yes	Point = 0	- 2
		Violated	Point = - 2	
Parking space	If parking spaces are present but do not have any visual marking.	Yes	Point = 0	- 2
		Violated	Point = - 2	
Employees with disabilities	Employees with disabilities are officially registered but do not actually work.	Yes	Point = 0	- 10
		Violated	Point = - 10	
Information about the enterprise	The information about the enterprise provided to the assessment team is deliberately false.	Yes	Point = 0	- 10
		Violated	Point = - 10	
Test on the inclusive hospitality of personnel	During the test on the inclusive hospitality of personnel, additional sources of information were used.	Yes	Point = 0	- 10
		Violated	Point = - 10	
		TOTAL		**- 38**

Note. Suggested by the authors

The enterprises or institutions that participate in the inclusiveness level assessment during the year, agree on the condition of parity, which means that the audit is conducted by the "Inclusive Friendly" team members during the period of time that both parties agreed on.

Different analysis phases may be different in terms of duration. The average duration of each phase is offered below in tabl. 9.

Table 9. Average Duration of the Inclusiveness Level Audit

Analysis phase	Duration
1.1. Personnel test – carrying out	20 people – 20 minutes
1.2. Personnel test – data analysis	20 people – 2 hours
2.1. Assessment of the inclusiveness of personnel	8 hours
2.2. Data analysis	3 hours
3.1. External accessibility	60 square meters – 1 hour
3.2. Data analysis	60 square meters – 4 hours
4.1. Internal accessibility	60 square meters – 1 hour
4.2. Data analysis	60 square meters – 5 hours
5.1. Social responsibility	20 employees – 8 hours
5.2. Data analysis	20 employees - 6 hours
6. Summary of all data, compilation of the report and recommendations	16 hours
7. Presentation of the report on the studied object and dissemination of information on the audit findings	1 hour
8. Monitoring the change implementation and consultations	50 hours

Note. Suggested by the authors

Enterprises or institutions order the inclusiveness level assessment once a year being able to order monitoring of the change implementation. Points vary from 0.00 to 5.00, where 5.00 is the highest mark. Institutions and companies that reach ≥60% level (3.00 points) are considered to pass the audit successfully, and the information on them can be published and disseminated. Institutions and companies the inclusiveness level of which exceeds 80% (4.00 points) are considered to be inclusive friendly and can be recommended for all the social groups to visit. Besides, the published report does not include information on which category obtained the fewest points.

All the information on an enterprise or institution obtained throughout the inclusiveness level assessment is confidential and cannot be disseminated. It is stated in the agreement, which is signed by the enterprise or institution and the "Inclusive Friendly" team. To conduct the inclusiveness level audit and assessment, a representative of the "Inclusive Friendly" is required:

1. To have a relevant toolkit:

- A filled out inventory about the enterprise/institution (Fig.2)
- Notebook and writing tools
- Voice recorder
- Tape measure
- Calipers
- Leveler
- Camera
- Dynamometers

- Lumometers
- Sound meters
- Terrain layout
- Architectural plan of the enterprise/institution
- Assessment inventory (Table 3) with the Tables 4-9 for marking the points.

2. To have two signed paper copies of the agreement with the enterprise/institution. Do you accept the requirements listed above?

- Yes
- No

Information about the enterprise/ institution:	Information about the enterprise/ institution
1. Contact person: Name_____ Last name_____ Position_____ Address_____ Phone number_____ E-mail_____ Additional comment_____	2. Alternative contact person: Name_____ Last name_____ Position_____ Address_____ Phone number_____ E-mail_____ Additional comment_____

3. Enterprise/institution:

Official name_____

Organizational structure type (private enterprise or union) _____

Address and registration date_____

Head of organization_____

The United State Register of Legal Entities, Individual Entrepreneurs and Public Organizations of Ukraine number_____

Web-site_____

Phone number_____

Headquarters_____

Analyzed department_____

Number of officially registered employees _____

Are there any not registered employees that work according to the civil law contracts_____

If yes, how many? _____

How many employees are people with disabilities? _____

If more than 0, how many of them actually work?_____

The business sphere of the company: _____

Fig 2. The inclusion level assessment questionnaire.

Note. Suggested by the authors

Thus, the level of inclusiveness plays an important role in the process of developing and implementing socialization of management in an enterprise. This issue also requires the selection of objects, subjects and methods of audit of the level of inclusiveness, as well as the formation of a system of organization of internal communications, aimed at achieving the goals and objectives of inclusive management of enterprises.

Thus, we studied the problem of the socialization of the national economy through the development of the inclusiveness of education and business in Ukraine and the introduction of an inclusive audit of institutions, its essence and place in the system of management of enterprises and institutions were determined, as well as features of the assessment of the level of inclusiveness in Ukraine and in the world. The well-known norms, methods and techniques for estimating the level of inclusiveness are analyzed. The necessity to form a system of indicators for estimating the level of inclusiveness of the internal and external environment at enterprises and institutions is substantiated. The sequence of estimation of inclusiveness level and its system of audit at enterprises and institutions is offered.

3. Development of social entrepreneurship as the basis for the socialization of the national economy.

The transition of Ukraine to the new socio-economic relations is accompanied by fundamental changes in the social orientations of economic development. Comprehensive development and satisfaction of human needs, which are the purpose of economic progress, require the general socialization of the economic system, which is realized through the creation of conditions for the growth of living standards of the population, the development of labor potential, the prevention of excessive income differentiation, the implementation of pension reform, the provision of targeted social assistance to low-income people the levels of society, the comprehensive development of education, culture, and raising the level of health care.

The need to consider social factors in the economic development of our country attaches great importance to the study of the processes of socialization of the modern market economy. Modern economic realities convincingly prove that the construction of a socio-market model of the economy requires a theoretical rethinking and practical study of the place and role of social factors in the system of economic development. It finds its direct realization in the purposeful influence of social relations on the formation of the corresponding proportions of the development of productive forces, the distribution of factors of production and its results, which would ensure the social protection of the population, to fully satisfy its needs in the social economic benefits.

At the same time, the realities of the socio-economic life of developed countries suggest that at the turn of the 21st century a turning point, a qualitative leap in social relations, was associated with the realization of a new paradigm of social progress - the development of man, personality with all the wealth of his abilities and needs.

Against the backdrop of such global changes, the Ukrainian economy is experiencing times of a protracted crisis. Thus, development has such negative phenomena as economic inequality, poverty, general deterioration in the health of the population and its growing social problems, unemployment. Hence, administrative and economic methods reflect their inadequate ability to meet the needs of all segments of the population, to provide moral peace and stability. The domestic economy in particular, and society in general, require the involvement of social management methods, the involvement of the "human person" in solving the growing problems.

One of the mechanisms for such involvement of social methods in solving economic problems is the realization of social entrepreneurship - as a socio-economic phenomenon, which is based not on satisfaction of the economic needs of society, but on the achievement of a social mission and goals.

The history of the emergence and development of such a socio-economic phenomenon as social entrepreneurship is rather short-lived and dates back to the beginning of 60 years of the twentieth century [1]. The first signs of social entrepreneurship are tracked by the founding of the first nursing school in the UK, Florence Natingale, the introduction of a cooperative movement by Robert Owen, and the realization of the Indian land-for-gift movement, Vinob Bhave. In the 19th and 20th centuries, some of the most successful social entrepreneurs promoted the spread of innovations whose value was appreciated so high that they were implemented on a national scale with the support of the state or business.

There is a point of view that "as a term," social entrepreneurship "was first used in the United States in the 1970s by non-profit organizations. Several of these organizations have started their business to create jobs for socially disadvantaged categories of people. The main idea was that social entrepreneurship can fulfill two functions: to have a positive social impact and be financially independent and profitable "[2].

According to M. Naumova, in the scientific terminology, "social entrepreneurship" was introduced in 1972, thanks to B. Drayton, the founder of "Ashoka" (Ashoka), the largest international organization that brings together leaders of social entrepreneurship from around the world, whose activities are aimed at on the systemic solution of the most acute social problems [3].

Dobrova N.V. believes that the synonym of social enterprise - a social business, was first used by the Nobel Prize winner Mohammed Yunus. "Among the seven principles of social business described by Yunus, poverty eradication, returning investment without dividends, environmental awareness and improving working conditions can be singled out. According to Yunus, social business should have been the leading model of capitalism of the future with a human face " [2].

New, more explicit definition of "social business" was given at the authoritative conference Social Media Week, which took place in October 2013 in London. On it, the social business was recognized as one of the five main trends of 2014 [4].

The most common definition of social entrepreneurship is Gregory Dizou, who has identified five factors that determine it [5]:

1) taking on a mission of creating and maintaining social values (good);

2) the identification and use of new opportunities for the implementation of the chosen mission;

3) the implementation of a continuous process of innovation, adaptation and training;

4) decisiveness of action, which is not limited to resources;

5) high responsibility of the entrepreneur for the results of his activities - both to direct clients and to society.

For a long time, social entrepreneurship was covered in the context of venture business and the activities of non-profit organizations, rapidly spreading to the sphere of solving social needs and problems - the area where social value is created.

Relative novelty of the socio-economic phenomenon of "social entrepreneurship" and its scientific knowledge predetermines insufficient study and ambiguous interpretation of the concept. This leads to the expediency of a more detailed consideration of the essence, role and importance of social entrepreneurship for the development of society as a whole, and Ukrainian, in particular.

Social entrepreneurship is a business whose goal is to solve social problems. The profits of social entrepreneurship are directed primarily at business development, public affairs or the resolution of acute social problems.

Social entrepreneurship is a system of management, the components of which are social enterprises. Social enterprises are socially oriented entrepreneurs, whose activities are aimed at achieving the welfare of territorial communities (social, environmental and ethical goals) through the use of systemic interconnection of the development of social entrepreneurship and the development of local economies [2].

B. Drayton recognizes social entrepreneurship as an innovative approach by which individuals can address the serious social problems that their community faces. The activity of a social entrepreneur is to identify a situation where a part of society is limited in its development and elimination of the relevant restrictions. B. Drayton emphasizes that social entrepreneurship is undeniably an important tool for economic and social development not only for underdeveloped, but also for developing and developed countries [4].

O. Sotula defines social entrepreneurship as "based on self-sustaining economic activity for the production of a socially significant product or service using innovative solutions that turn the service and / or mechanisms of its implementation into the benefit of society [1].

The ultimate goal of this activity is not profit making, but the production of a product or service intended to solve a public problem. Social entrepreneurship has the following components: 1) a social problem that persists for a long time in a society due to the limited access of a target group to financial and political resources for solving it; 2) development and implementation of a mechanism for innovative solution of a problem that violates a stable but unfair balance; 3) the creation of a new, sustainable balance that frees resources for the target group and provides a better future not only for these people, but for society as a whole. Social entrepreneurship is an activity that has three landmarks: social, market and innovation [7].

As G.Dis argues in his research, the main goal of social entrepreneurship is to seek and implement opportunities for identifying and addressing social needs and their changes. That is, a social mission is crucial for social entrepreneurship [8]. According to Z. Galushka [10], the very existence of a clear and understandable mission of social direction, which involves solving certain social problems, is one of the main characteristics of social entrepreneurship. Therefore, instead of forming, gaining wealth, the main criterion for social entrepreneurship is the impact on the world through the realization of a social mission. Though, wealth can serve as a means of implementing such a mission.

Also, the characteristic features of social entrepreneurship scholars include: the use of innovative approach to solving social problems; use of business management methods (organization, planning, control), application of entrepreneurial trust in order to profit; perceiving profit as a means of achieving positive social transformations; a collective ownership form that covers participants in a social enterprise, its employees, a target group, volunteers, and others.

O. V. Sotula refers to the main features of social entrepreneurship [1]:

- social impact - target orientation on solving / mitigating existing social problems, sustainable positive social outcomes;
- Innovation - the application of new, unique approaches that can increase social impact;
- self-sustainability and financial stability - the ability of a social enterprise to solve social problems as long as necessary and at the expense of income derived from their own activities;
- scalability and duplication - increasing the scale of the social enterprise (national and international) and disseminating experience (model) to increase social impact;
- entrepreneurial approach - the ability of a social entrepreneur to see market failures, find opportunities, accumulate resources, develop new solutions that have a long-term positive impact on society as a whole.

Thus, the social mission (or influence or direction) is the main characteristic of social entrepreneurship, and entrepreneurial features - innovation, self-sustainability, scale, etc. - are complementary characteristics of the phenomenon under study.

K. Alter [10] considers it fundamental that in the practice of various forms of social entrepreneurship, the social and economic value is difficult to separate from each other. In confirmation, the author points out the concept of "mixed value" by J. Emerson, who gained popularity in connection with the active participation of business in the implementation of the principles of social responsibility. The concept of mixed value includes 3 components - economic, social and environmental values. It is traditionally believed that non-profit organizations are responsible for creating social and environmental values, while commercial ones are for economic reasons. In fact, both types of organizations form all three components of value [3].

According to general studies by European scientists J. Mayr and I. Marty, social entrepreneurship is a business approach that is identical to entrepreneurship but different in mission and purpose. Thus, social entrepreneurship is seen as a process of creating value through the combination of resources of the organization in a new way for the realization of opportunities that promote the creation of social value, stimulate social change or allow to identify social needs [11].

Scientists A. Peredo and M. McLean [12] emphasize that social entrepreneurship is carried out when an individual and an organization seek to create social value in a new or already well-known way. It is important to emphasize that social entrepreneurship prefers to create social values, rather than economic, created by other forms of entrepreneurship. A. Peredo and M. McLean argue that social entrepreneurship is manifested in those situations where a person (or group of persons) [12, p.25]:

1) is aimed at creating social value;

2) shows the scale of recognition and use of social value creation opportunities;

3) uses innovations from the invention to the adaptation of the novelty, creates and / or distributes social values;

4) is ready to take risks above the average level in the creation and dissemination of social value;

5) unusually inventive in conditions of insufficient resources, engaged in social entrepreneurship.

According to Galushka O., the key word in the category of social entrepreneurship is "entrepreneurship", and "social" plays only a modifying role. The main properties of every business - the creation of value; "Creative destruction", transforming activity; search for changes and use opportunities. All this equally affects both entrepreneurship and social entrepreneurship, each of which offers a new value, overcoming the balance of equilibrium [9].

The main difference between entrepreneurship and social entrepreneurship lies not in the field of motivation, but in the field of characteristics of the value produced. In the case of ordinary business, this market value, which can be expressed in the category of income and profits. In the case of social entrepreneurship, this value is expressed in the

preponderance received by a significant part of society or society as a whole from the "large-scale transformation" made by the social entrepreneur. At the same time, the target groups assigned the "value" are the least protected and the least prosperous strata of the population who do not have the financial resources or political leverage to achieve "derived from the transformation of value" by themselves [10].

Key points in social entrepreneurship are the achievement of social welfare and the creation of favorable opportunities for this. Social entrepreneurship signals the need to stimulate social change, and the result itself and its long-term effects lead to positive changes in society's life, thus distinguishing this sphere of activity.

According to Gregory Diza, director of the Center for Social Entrepreneurship at the University of Duke (USA), the blurring of cross-sectoral borders is a distinctive feature of social entrepreneurship. In addition to non-profit venture companies, social entrepreneurship often includes profitable social organizations - such as local community development banks, as well as "hybrid" organizations that include lucrative and non-profit entities.

A social entrepreneur does not strive to achieve substantial financial returns for his investors or for himself; he seeks values in the form of large-scale positive transformations. Appointment of value in the sense of a social entrepreneur is to serve a socially vulnerable population, a people in need and who lacks their own financial means or political will to make positive changes on their own. This does not mean that social entrepreneurs always avoid getting profit at the expense of created values. Enterprises can make a profit, but can be organized as non-profit [5].

Summarizing the above study on the essence and content of a social enterprise, it is advisable to define the following key provisions:

• in the social enterprise, the realization of any activity is carried out (activities may be habitual, but new, innovative activities are often implemented) in order to achieve the social goal, the fulfillment of a social mission;

• Social entrepreneurship is nevertheless an entrepreneurial one (which is manifested in the peculiarities of organizing and doing business, the pursuit of profit), but it has a special nature of the organization of work, the formation and use of profits, a specific approach to the formation of capital.

Social entrepreneurship is dynamically developing in European countries, solving problems of unemployment, social protection, social inclusion, etc. The main mission of social entrepreneurship is to bring benefits to society.

Today, social entrepreneurship in many countries of the world is no longer an exception. It is an active socio-economic activity with its ideology, mission, and definitions.

The concept of social entrepreneurship can be understood better by having familiarized with the three main models of their implementation [13].

The first approach manifests itself in the countries of North and South America, where social entrepreneurship is called the entrepreneurial activity of non-profit non-governmental organizations, whose profit is used to implement social problems, to provide services to the target group for which the organization was founded, and to improve the quality of life of this target group.

The second approach to the definition of social entrepreneurship exists in European countries, where social entrepreneurship is defined more as an entrepreneurial or a social mission business, where the social effect of entrepreneurship is first and only then its financial efficiency.

The third definition of social entrepreneurship stems from the specifics of the activities of international private and public funds. They define social entrepreneurship as an innovative entrepreneurial activity in order to improve the community and restore social justice. The most important thing in this concept is the role of a social entrepreneur who is a leader, innovator and driving force of social transformation in the community.

In Ukraine, the so-called British model is mostly professed and popularized. According to this model, social entrepreneurship has four clear criteria [14]:

- business;
- the social purpose is what this business is working for;
- distribution of profits, where it is clearly determined how much interest will go on social purpose or, for example, reinvestment of this business;
- democratic governance.

Social entrepreneurship has positive effects from activity, it is:

1) to promote the employment of people with limited physical and mental capabilities and the unemployed;

2) offering new ways to reform public social services;

3) support for the involvement of citizens in social initiatives on a voluntary basis, community of communities around social problems;

4) expansion of types of social services that are left out of the attention of ordinary business due to low profitability, unpopularity, lack of proper training;

5) effective use of available resources of the region in solving social problems;

6) reduction of the burden on local budgets in solving social problems (it is actual in conditions of chronic deficit of budget funds);

7) contribute to the formation of a favorable competitive environment.

Consequently, social entrepreneurship is increasingly showing itself as a stable tendency for further socialization of business in the new environment, when objective opportunities for further development of society are not seen without the interest of small and medium-sized business representatives, whose share is constantly growing.

The research [15] summarizes the main opportunities that promote the development of social entrepreneurship in Ukraine:

1) economic situation. The difficult economic situation in the country caused by the impact of economic and political crises, led to the development of unemployment, lower incomes, and increase the number of socially vulnerable residents. Such negative tendencies promote the implementation of innovations in an attempt to solve social problems. Thus, there are innovative types of activities, types of services that are provided to achieve social goals.

2) resource availability. Social enterprises are able to attract non-demanded workers in the traditional business (people with disabilities, internally displaced persons, victims of armed conflicts, members of hostilities, ethnic minorities, the elderly, youth with socialization problems, people with severe chronic diseases, people who left the places of imprisonment, families with many children), use buildings owned by communities, work with waste of productions and life, receive financial resources from non- ypovyh for traditional business sources. The relative cheapness of the resources of social enterprises, due to their lack of demand, is often not a reflection of their poor quality. It allows to ensure high economic efficiency of activity along with achievement of social effect.

3) legislation. The absence of direct legislation in the field of social entrepreneurship is an objective necessity for the further successful development of such a business. However, the absence at the moment allows us to realize many innovative and socially oriented projects with minimal risks and costs, and find ways to reduce / avoid taxation.

4) outsourcing for a big business. This allows social enterprises to obtain contracts that will ensure their viability, get ideas for the implementation of new social projects.

5) consumer loyalty to the products of social enterprises is increasing. As a result, there is a growing opportunity to develop products / services for social enterprises, consumer culture, business development.

6) social entrepreneurship is supported by international foundations and organizations that allow both the creation and development of a joint venture. Social enterprises have the opportunity to receive financial resources from a variety of non-state funds, sponsorship, including From abroad; get support through providing advice, helping to expand sales markets, and more.

The constituent components of social enterprise are social enterprises, owners or co-founders, which are non-governmental non-profit non-governmental organizations, such an enterprise operates under all business laws and generates profit, therefore it is not considered a charitable organization. It covers such areas as education, environmental protection, poverty alleviation, human rights protection, etc. Social enterprises differ by type of activity, direction and form of ownership.

In particular, according to the type of activity, social enterprises are divided into:

- those who provide social services (psychological support for war veterans with post-traumatic syndrome), care for children in large families);

- those who sell or make and sell social goods (tactile plates for blind people, crutches, etc.);

- those who employ unprotected layers and contribute to increasing the income of this group (employment in a bakery for people with disabilities or a hairdresser's where migrants work, or HoReCa establishments employing veterans, etc.);

- those who provide various services to the population in order to maximize profits and their full transfer to the maintenance of a charitable foundation or public organization or to cover the costs of a government institution that deals with vulnerable layers (the sale of automotive tires in Lviv, and 100% of the profits goes to the installation of orphanages in Lviv region);

- combinations of the above-mentioned, for example, enterprise-association of citizens (EAC) "Inclusive-Friendly", where the company provides services to other businesses for the training and development of their staff for inclusive, friendly service, manufactures and sells social goods, trains people with disabilities as trainers, and transfers 100% of profits to the account Rehabilitation Center "Vidchuy (Feel)".

According to the direction of activity, social enterprises are divided into:

- aimed at the development of education;
- aimed at the development of inclusiveness and tolerance;
- aimed at the development of human rights;
- aimed at infrastructure development;
- aimed at developing a health care system;
- aimed at the development of ecology;
- aimed at the development of entrepreneurship and economic freedoms;
- aimed at community and country development.

According to the forms of ownership, domestic social enterprises are divided according to the current legislation into state and private ones.

Variants of organizational and legal forms in Ukraine include the implementation of social entrepreneurship on the basis of [15, c.28-30]:

1) civil society organizations (CSO) (non-profit organizations):

- charitable organizations;
- public organizations;
- other types of CSOs as non-profit organizations (religious organizations, etc.);

2) business entities of private law:

- legal entities (on the general system of taxation, with application of the rate of 0%, on the simplified taxation system);
- enterprises and organizations established by public organizations of people with disabilities;

- individual entrepreneurs (on the general system of taxation, on the simplified taxation system) / Individuals engaged in independent professional activities;

- conclusion of agreements on joint activity of the subjects of different OEF (civil society organizations, business entities, individuals).

In most cases it is social organizations that are the drivers of the development of social entrepreneurship. After all, their activity is primarily a defined area with a defined target audience and existing problems, challenges and opportunities. Therefore, from their micro and macro projects, where a product or service is created, the possibility of opening a social enterprise that will continue to function and develop without the help of grants or other indirect sources of income will be born, but will provide itself on its own.

In addition, the NGO has the right to sell services and goods. However, one of the principles of the activities of public associations is the lack of property interest: the members (participants) of a public association are not entitled to the share of property of a public association and are not responsible for its obligations. Income or property (assets) of a public association is not subject to distribution among its members (participants) and can not be used for the benefit of any individual member (participant) of a public association, its officials (except for the payment of their labor and deductions for social take action) This is important, sometimes limiting for investors, a factor that influences the choice of organizational and legal form of a social enterprise.

False is the notion that social enterprises do not have the purpose of making a profit. In social enterprises, profit, as in any business, is a source for expansion, development. Therefore, without advocating an end in itself, it is a measure of the success of the idea and its implementation, a source of self-financing development. It is the organizational and legal form of a social enterprise that influences the distribution of profits on the results of its activities. The following variants of profit distribution by social enterprises are known [15]:

1. All profits are reinvested in the expansion of activity. Such an approach is inherent in social enterprises created by people with disabilities or socially vulnerable categories of people for self-help and employment, as well as cooperatives whose purpose is to improve the quality of community life. Quite often, such enterprises do not profit at all. In case of receipt, additional workplaces are created or additional social support is realized.

2. Part of the profit reinvested, part is for social purposes. Such a division is typical of social enterprises created by civic organizations and charitable foundations. The part intended for social purposes is transferred to a public organization (charity fund) that spends money on a particular social mission.

3. All profit goes to achieve a social effect. This type is often called the "profit generator", given the direct function of earning money for certain social initiatives. There remains a certain percentage for the maintenance and development of business, while the other is directed at financing, for example, a public organization or a charitable foundation.

The generalization of research on the peculiarities of the functioning and development of social entrepreneurship in Ukraine reflects the following trends [9, p.17]:

1. Social entrepreneurship is a "product" of time, which is characterized by general socialization, focus on solving social problems;

2. Implementation of social projects, as a rule, maintenance of funds of collective teams, not alone;

3. Social entrepreneurship is open to innovative ideas, the adoption of positive experiences and the formulas of success;

4. There is a change in the paradigm of this phenomenon - social innovation is spurred as a project by self-organized professionals;

5. The main social value is the formation of meaningful intercultural relations;

6. Investing in the potential of human development is growing;

7. The production of promo-video projects, consulting on communication strategy and educational session is carried out;

8. There are conflicts of growth - funding for social initiatives is perceived as irreversible losses;

9. The desire for dialogue between the players in society and the formation of meaningful connections is growing. "

In spite of the important role for the development of society in modern conditions, the social enterprise in Ukraine faces obstacles that in one way or another impede the spread and penetration of such phenomenon in all spheres of public relations. In particular, among the main problems hampering the quantitative and qualitative growth of social entrepreneurship, it is advisable to allocate [3, 9, 14]:

- there is no legislative support for the activities of social enterprises;

- low motivation (social entrepreneurship is associated with greater risks than obtaining grants and state subsidies);

- low communication with the social mission (among the leaders of nonprofit organizations, state bodies and the public, the perception of business approaches and entrepreneurial activity as incompatible with a social mission, non-profit status or use of resources for the needs of the main activity is widespread;

- low financial stability (most non-profit organizations can not operate systematically without additional investment);

- limited access to financial resources;

- limited access to qualified specialized services (legal, financial, marketing, etc.).

The most complicated and important problem for the development of social entrepreneurship is the lack of legislation in this area. Social entrepreneurship has no legal definition, a separate organizational and legal form, which would greatly simplify the registration and operation of such enterprises in Ukraine, would provide more opportunities, access to investment resources.

Most non-profit organizations, while taking profit from their activities, are trying to cover their own expenses for the current activity, but this is absolutely not enough for the effective functioning of the organization. That is why there is a need to develop and adopt a regulatory framework that regulates the activities of social entrepreneurs. This should be a law that not only gives the definition of key concepts, but also reveals the mechanism of functioning of social enterprise in general, the system of state support, the involvement of business structures.

Rights and opportunities of social enterprises for state support in the form of tax privileges, in the conduct of investment activities, in land matters, turning and non-repayable financial assistance, loans, assistance in giving priority to the placement of state orders and the implementation of state target programs, employment of vulnerable categories of persons and in other forms, should be legally established.

It is also necessary to adopt a social entrepreneurship support program that is periodically updated, based on new needs and challenges. For such support there should definitely be money. However, in the light of decentralization, with the limited possibilities of the state budget, local authorities should be stimulated to allocate resources to support the social entrepreneurs in their region. In turn, local government will be more easily involved in business structures operating in the region.

The main motivating factor for the development of social entrepreneurship, along with psychological factors (as receiving satisfaction from the implementation of a favorite affair, self-realization, from providing assistance to those in need) should be the argument of the possibility of preventing / overcoming the development of depressed mood in society associated with the existing problems of economic development.

It is proved that investments into social, ecological, cultural and other projects as a result of the functioning of social enterprises are more effective for the implementation of anti-depressive policies than the implementation of relevant social state and regional programs. "Despite the predominantly insignificant profits, low profitability, social entrepreneurship can provide other benefits by raising the level of socio-economic security of the regions, including at the expense of: reducing the amount of social benefits for unemployment, helping vulnerable groups of the population; preservation, development and effective use of multiplication of unique factor advantages of the region (natural, cultural, ecological and other resources) to increase its competitiveness; counteract negative migration trends, especially among young people due to high unemployment in depressed areas; development of creative potential of territories; provision of direct reinvestment of taxes and fees for solving socio-economic problems; creation of additional sources of development of the region, even at a low level of profitability, social enterprises contribute to increasing the competitiveness of related industries (for example, the development of museums stimulates the tourism industry; improves the design of the environment, attracts investment in the construction of private housing, etc.) "[17, p.165].

The low financial stability of social enterprises is associated with many factors - the very nature of such entrepreneurship, where the functioning of the foundation is not based on profit and economic efficiency, lack of financial resources, which impedes the formation of the necessary turnover of resources, insufficient knowledge and experience of social entrepreneurs.

The solution of these problems requires the formation of proper institutional support for the development of social entrepreneurship in Ukraine. Under the institutional environment is usually understood as a set of social, political, legal, economic, psychological and other formal and informal constraints, norms, rules governing the relationships of various economic entities.

Institutes are those formalized norms and non-formalized rules that define and structure the relations between the institutional actors of civil society. The most important institutions of entrepreneurship are the following: property, contract, right, freedom of choice and actions, etc. And the development of social entrepreneurship is in dire need of such a settlement and support.

On the one hand, today there are various organizations in Ukraine that support social entrepreneurship. These are: Ukrainian Fund for Entrepreneurship Support, International Renaissance Foundation, Sokal Regional Development Agency, Blagovist Charitable Foundation, Charity Enterprise "Perlyna Bukovina", Charitable Organization "The Help Center for Children with Disabilities" and others.

Since 2010, the project "Promoting the development of social entrepreneurship in Ukraine" is being implemented in the pilot regions of Ukraine, namely, in the Lviv and Donetsk regions, the efforts of the British Council in Ukraine, the Eastern Europe Foundation, Pricewaterhouse Coopers in Ukraine, Erste Bank and the International Renaissance Foundation with the assistance of Erste Stiftung and the Ukrainian Entrepreneurship Support Fund. Within the framework of the project "Promotion of Social Entrepreneurship", special centers are set up, providing social enterprises with comprehensive support in initiating and developing their activities, conducting trainings and training for social entrepreneurs, and carrying out educational work [17]. In addition, more and more courses are being launched and developed in order to facilitate the initiation and implementation of social activities of a social nature.

However, institutional support should be based on the adopted legislative acts, be systematic and comprehensive in all regions of the country, be widely disseminated and publicly known.

Social entrepreneurship is a promising form of responsibility, based on the individual's motivation to implement ideas in order to overcome social problems, support for the poor and people with special needs. The Ukrainian society faces the task of determining the national specificity of this phenomenon and ways of supporting it from the state side.

Conclusions.

The integration processes currently taking place in the higher education system form new demands for higher education institutions, requiring them to continually improve and find new ways to increase their own competitiveness.

One of the priority strategic directions for the development of educational activities is the organization and formation of an inclusive education system, which requires the improvement of the quality of educational services provided in the context of the implementation of educational inclusive programs for students with special educational needs and disabilities.

The introduction of inclusive education involves ensuring the implementation of its conceptual framework for ensuring equal access to quality educational services for people with special educational needs. Formation of a qualitative inclusive environment in the education system is possible only with the established cooperation and interaction between higher education institutions, business, the state, public organizations and society in general, as well as understanding the importance of addressing the issue of socialization and adaptation of people with special needs and disabilities.

Thus, we studied the problem of the socialization of the national economy through the development of the inclusiveness of education and business in Ukraine and the introduction of an inclusive audit of institutions, its essence and place in the system of management of enterprises and institutions were determined, as well as features of the assessment of the level of inclusiveness in Ukraine and in the world. The well-known norms, methods and techniques for estimating the level of inclusiveness are analyzed. The necessity to form a system of indicators for estimating the level of inclusiveness of the internal and external environment at enterprises and institutions is substantiated. The sequence of estimation of inclusiveness level and its system of audit at enterprises and institutions is offered.

It is proposed to consider social entrepreneurship a promising form of social responsibility. Social entrepreneurship not only helps motivate the individual to implement ideas in order to overcome social problems, support for the poor and people with special needs. Social entrepreneurship is also beneficial from the business side, as it enables to reduce the tax burden on it, and on the part of the state and society, socializing a large population.

The Ukrainian society faces the task of determining the national specificity of this phenomenon and ways of supporting it from the state side. Therefore, we recommend deepening institutional support by adopting legislative acts on the development of social entrepreneurship, implementing it systematically and comprehensively in all regions of Ukraine, implementing it through the dissemination by the media of the position of the inclusive (open) environment in order to realize the rights and freedoms of every citizen of Ukraine.

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YOUTH PATRIOTIC EDUCATION IN UKRAINE: PROBLEMS AND WAYS OF OVERCOMING THEM

Abstract*. The issues raised in the paper are aimed at improving the system of youth patriotic education, in particular in higher educational institutions. The theoretical and methodological foundations are substantiated and the experience of higher educational institutions of Ukraine in the sphere of youth patriotic education of is generalized. The priority tasks for improving the quality of youth education and training, improving the educational process in accordance with the current needs of the state, that reflect socio-political position of Ukraine, intensification of transatlantic and European integration processes, in particular the entrance into the European educational and scientific space, and require the development of all the components of the youth training and education system of Ukrainian. Different approaches for developing patriotic feelings in modern youth are suggested. Practical steps for the development of youth patriotism are substantiated, the model of patriotic education, which will work efficiently taking into account the interests of the university, is described. The concepts of patriotic education in higher educational institutions of Ukraine, content of educational disciplines, forms of out-of-class- activities are analyzed. The educational potential of subjects and the efforts of the teacher are determined to ensure a comprehensive influence on the consciousness, feelings and behavior of a young person.*

JEL Classification: I20

Introduction.

At the current stage of the state development of Ukraine, the problem of promoting patriotic feelings, active citizenship and awareness of the civic duty on the basis of national and universal human spiritual values for the young generation is of utmost importance.

There is no more important task than raising a new generation of Ukrainians. It is impossible to succeed in this without combining the efforts of the state, educational institutions and society. And the main thing in this context is to join all the efforts to develop highly educated, patriotically-minded Ukrainian nation, otherwise Ukraine may lose its statehood. One of the priorities of our country is to improve the quality of the professional training of future specialists, to develop the educational process in accordance with the current needs of the state that reflect the socio-political position of Ukraine, the intensification of transatlantic and European integration processes, in particular the entrance into the European educational and scientific space, and require the development of all the components of professional training system.

However the issue of patriotic education of youth under modern conditions of aggravation of socio-political contradictions, economic instability, changes in moral values, being closely linked to the problem of further development of Ukraine after the proclamation of its independence, the revival of national traditions, the place and role of a citizen in the system of multi-party society, still remains poorly investigated.

The state-building processes that have taken place in Ukraine recently caused the necessity to solve the problem of educating nationally conscious citizens, true patriots, devoted to their Motherland, ready for fruitful work in the name of their fellow citizens. The system of education in general and the academic staff of higher educational institutions, in particular, should effectively address the complex tasks of youth patriotic education, which are reflected in official documents. The development of patriotic education first of all assumes taking into account new political realities and observing national traditions of the Ukrainian people, scientific substantiation of practice and historical experience that can be reproduced in state museums and contemporary cinematograph. The new system of military patriotic education should be available to all the modern student youth of Ukraine. This problem is partially solved by means of involving students into the research work and regional studies, and as a result – the creation or modernization of museums takes place.

1. Patriotic education as a nationwide problem

We consider patriotic education as a component of national education, whereas its main goal is the formation of a self-sufficient patriot of Ukraine, a humanist and a democrat ready to fulfill his civil and constitutional duties, to inherit spiritual and cultural achievements of the Ukrainian people, to develop a high culture of relations.

The purpose of national patriotic education is the formation of a high patriotic consciousness in the younger generation, a sense of love for Ukraine, respect for outstanding national personalities, and readiness to fulfill civil and constitutional duties. Patriotic education includes social, target, functional, organizational and other aspects. The main component of the patriotic education is the formation in the youth of the love of the native country that is being carried out primarily by the family, the current social environment through the observance of certain cultural traditions, customs, rites, beliefs.

The problem of patriotic education attracted the attention of many researchers. Thus, the essence of patriotism, as a moral quality, was determined by J. Pestalozzi, A. Diesterweg, G. Skovoroda, as a core principle of national education – by K. Ushinsky, M. Hrushevsky, I. Ogienko, G. Vaschenko, O. Vishnevsky. Theoretical and methodological principles of patriotic education of children and young people were considered by O. Dukhnovich, S. Rusova, G. Vashchenko, A. Makarenko, V. Sukhomlynsky. Particularly valuable are the following modern scientific developments: the concept of Ukrainian education by O. Vishnevsky; scientific works devoted to the means of patriotic education of student youth: T. Anikina (artistic regional studies), O. Gevko (applied arts and crafts), E. Frankiv (tourism and regional studies), Yu. Krasilnik (Ukrainian ethno-pedagogy), Yu. Kayukov (the heroic traditions of the Ukrainian Cossacks), Yu. Rudenko (the national-patriotic ideals of the young Cossacks).

Among the classics of pedagogical science the problems of national-patriotic education were analyzed by: G. Vashchenko, O. Dukhnovich, A. Makarenko, O. Ogienko, S. Rusova, G. Skovoroda, V. Sukhomlynsky, K. Ushinsky, Y. Chepiha and other prominent scientists and teachers. In their papers, they researched the problems of patriotic feelings relevant for their period as an integral part of the national education system, putting forward the ideas of developing a "conscious" citizen, the patriot of his Motherland.

The ultimate goal of youth patriotic education is the formation of a new Ukrainian citizen, acting on the basis of national and European values, such as: respect for national symbols (Emblem, Flag, Anthem of Ukraine); participation in social and political life of the country; tolerant attitude towards the values and beliefs of another cultures, as well as to regional national-linguistic differences; equality of everyone before the law; readiness to defend the sovereignty and territorial integrity of Ukraine.

Modern youth, apart from professional knowledge, skills and abilities, should possess a sense of general culture, understanding of the environmental and social consequences of their activities, ideological orientations and spiritual values. Therefore, one of the tasks of humanization and humanization of higher education in particular is its orientation towards universal cultural values, the attraction of young people to national sources of spirituality, the formation of their patriotic qualities. Modern educational system should develop not only a specialist in the field of psychology, pedagogy, jurisprudence, technology, but also a citizen, patriot who cares about the fate of Ukraine, its economy, education, culture etc.

However, the analysis of the scientific papers by the above-mentioned scientists suggests that the issues of youth patriotic education, the generalization of the experience of developing their patriotic qualities were not comprehensively studied. There are no scientific works devoted to the substantiation of the content of patriotic education and methods of its realization while studying social and humanitarian disciplines nowadays.

Current modernization of Ukrainian society is characterized by a complex of socio-economic, political and spiritual processes, and therefore one of the strategic tasks is the integration of educational potential of society in order to achieve full development of human personality, formation of physical and moral health, the ability to adapt to the dynamic socio-cultural, economic, political living conditions and properly fulfill one of the most important responsibilities of a person – to be a patriot, ready to work and protect the Motherland.

In pedagogical science, despite a large number of concepts of national education, monographs dealing with the theoretical and methodological foundations of patriotic education in the present time (L. Viktorova, O. Dubaseniuk, V. Kuz, I. Martyniuk, V. Mokseyev, Yu. Rudenko, V. Skuratovsky, M. Stelmakhovich, V. Stuparik, A. Sukhomlynska, T. Suschenko, E. Syavavko, G. Filipchuk, V. Shynkaruk, etc.), some aspects of the problem of upbringing in the context of national traditions have been developed and the educational value only of some of them has been revealed. Somewhat better in the pedagogical literature the following issues are studied: patriotic, ecological, aesthetic upbringing, formation of humanity and spirituality on national cultural traditions, ritualism of the Ukrainian people by means of ethno pedagogy.

Teaching the young generation to be patriotic, devoted to the promotion of statehood and active citizenship is now recognized as a national scale problem.

Currently, the main directions of education are in the focus of constant attention from the President of Ukraine, the Verkhovna Rada and the Government, the scientific community, pedagogical science and practice.

Conceptual scientific and theoretical foundations of national patriotic and military-patriotic education consist in purposeful influence on consciousness, mind and personality, aimed at the formation of attitudes, values and ideals in children and young people, manifested in their behavior, activity, communication and based on the principles of national orientation, social responsibility, historical and social memory, inter-generational heredity, tolerance, mobility, self-identity, self-regulation, etc.

In Ukraine, the improvement of patriotic education of children and young people should become one of the priority directions of the state and social activity in terms of developing a citizen with high morality, who preserves Ukrainian traditions, spiritual values, possesses the relevant knowledge, skills and abilities, is capable of using his potential in a modern society, admits European values, is ready to fulfill his duty to protect his homeland, its independence and territorial integrity.

Patriotic education assumes the development of a militaristic culture based on the unity of universal values, national civil and state traditions.

Moreover, of utmost importance is a pedagogical substantiation of the components of this culture, the awareness of the need for military protection of vital national interests of Ukraine, the need for constant readiness for its protection, a sense of responsibility for the state security.

The urgency of patriotic education of citizens, especially children and young people, is conditioned by the process of consolidation and development of Ukrainian society, the current challenges Ukraine is faced with and therefore further improvement of the system of national patriotic education and optimization of state policy in this area are required.

Patriotic education should acquire the features of systematic and purposeful activity of state authorities, local self-government bodies, educational institutions, civil society institutions and citizens for the formation of a profound national and patriotic consciousness of a person and a citizen, a sense of loyalty to their state.

The basis of the national patriotic education system should be the idea of strengthening Ukrainian statehood as a consolidating factor in the development of society, the formation of patriotism in children and young people.

The patriotic development of an individual takes place as a two-way process: at the psychological level, it is the formation of ideas, feelings, habits, mood and aspirations; on the ideological – the formation of patriotic consciousness, ideas, views and beliefs [1].

Analyzing different approaches to the definition of "patriotism" one can distinguish its external structure:

– patriotic feelings;
– national dignity of a person;
– need in serving national interests;
– patriotic consciousness based on national consciousness, understanding your civil role in the society;
– national delicacy and tolerance with other nationalities;
– desire and need to accumulate, preserve and to hand down national cultural values;
– readiness for patriotic activity [2, 5].

Patriotism as a feeling has its inner structure which consists of the following components:

– the first, superficial – natural love for your fellow citizens as a great family, love for your native language, nature;
– the second – a conscious sense of patriotism, awareness of the duty to your fellow citizens, willingness to protect their interests;
– the third – combination of love to those who are close to you with the awareness of your duty to the people; desire to serve your Motherland [3, 7].

Patriotic feelings reflect the attitude of the individual towards his state, its past, future and present.

The components of patriotic feelings are:

- a sense of belonging to your state and fellow citizens
- a sense of pride for the success of the state;
- respect for history, culture, traditions, beliefs, and mentality;
- honoring the heroic achievements of the past and the present;
- love of native nature;
- respect for the mother tongue, traditions, customs, rituals of your country;
- homesickness;
- dislike for everything that is anti-Ukrainian;
- a sense of national dignity.

Formation of value orientation and civic consciousness among children and young people should be carried out on the examples of the heroic struggle of the Ukrainian people for their self-determination and consolidation of their state, the ideals of freedom, unity and statehood.

At the same time, an important part of patriotic education should be the dissemination of information about the achievements of our compatriots and their contribution to the treasury of world civilization, in particular in the spheres of education, science, culture, art, sports.

In modern conditions, the development of patriotic education of the younger generation becomes of particular relevance, because it is caused by the formation of a sense of love and devotion to the Motherland, national pride, willingness to serve your fellow citizens, understanding and empathy of its history and culture, the desire to build a highly developed, competitive nation, society and state.

Patriotism is a socio-historical phenomenon that has specific manifestations in different historical epochs. After all, every person, and also a social group, manifests his specific interests and this determines the understanding of patriotism.

The word "patriotism" (gr. "patris") – means "homeland, Motherland", it first appeared during the Great French Revolution (1789-1793.). Patriots called themselves fighters for the people, defenders of the republic.

In pedagogical literature there are at least three varieties of patriotism [2].

Ethical patriotism is based on the feeling of involvement with your fellow citizens, love for your mother tongue, culture, history, and so on. This term was first used by the famous scientist and psychologist I. Kon who argued that "... ethnopatriotism is associated with the affirmation of specific, simplified images of the people, usually endowed with positive traits" [3].

Territorial patriotism is based on the love of that place on earth (terrain, landscape, climate, etc.), where the person was born.

State patriotism is based on the ultimate goal of the nation ¬ to build its own state, develop self-identification, self-determination, state-oriented worldview and feeling; it is a supreme patriotism built on state ideology and associated with a sense of civicism.

The diversity and ambiguity of understanding the concept of “patriotism” is explained by the complex nature of this phenomenon, its diverse content, the different forms of manifestation. V.O. Sukhomlinsky also pointed out the complexity of patriotism education, explaining that in everyday life we do not meet the measure by which it would be possible to identify this "hard-to-understand value" – patriotism [6].

Despite the fact that over the last decades a number of concepts have been developed for the national patriotic education of youth: the Concept of the National System of Education (1996); The concept of national patriotic education (2009); Concept of the National target program of patriotic education of citizens for 2013-2017; The Concept of Civic Education and Education in Ukraine (2012), however no specific steps were made to implement them.

That is why, during 2015-2016 in The National Academy of Educational Sciences of Ukraine that is a leading state institution in the sphere of psychological and educational sciences a range of important documents was developed:

– “Concept of national-patriotic education of children and youth” (March 26, 2015);

– “Measures on implementation of the Concept of National Patriotic Education of Children and Youth" (April 28, 2015);

– “State target social program of national-patriotic education” for 2016-2020, approved by the decision of the Cabinet of Ministers (18.02.2016);

– “Activities of the National Academy of Pedagogical Sciences of Ukraine on the implementation of the “State Target Social Program of National-Patriotic Education" for 2016-2020 and proposals for “Action Plan for the Strategy of National-Patriotic Education of Children and Youth for 2016-2020”;

– “Methodical recommendations for national-patriotic education in general educational institutions”;

– Project “Concept of support and promotion of child movement development in Ukraine”;

– “Concept of military-patriotic education in the system of education of Ukraine”;

– “Concept of military-patriotic education of children and pupils in Ukraine”;

– “Concept of military-patriotic education of youth in the society for the Defense of Ukraine”;

– “Conceptual foundations of military-patriotic education of children and pupils in Ukraine”, and on October 13, 2015 the Decree of the President of Ukraine # 580/2015 “On the Strategy of National and Patriotic Education of Children and Youth for 2016-2020” was issued».

The achievement of the relevant results of the educational process is ensured by a system of principles of national-patriotic education, among them the following can be distinguished. General pedagogical principles of education: child-centered approach; culture conformity; responsibility before nature; humanism; respect for age and individual characteristics;

Specific principles of patriotic education are:

– the principle of national orientation, which provides a sense of national consciousness in the youth, teaches to love your native land, the Ukrainian people, respect your own culture and culture of all the peoples inhabiting Ukraine, the ability to maintain your national ideology, to be proud of being Ukrainian, take part in the development and protection of your state;

– the principle of self-adequacy and self-regulation, which produces a civic position, forms the skills of critical thinking and self-criticism;

– the principle of multiculturalism, which involves the integration of Ukrainian culture into European and world space, creating the necessary preconditions for this: the development of openness, tolerance to the great ideas, values, culture, art, beliefs of other peoples; the ability to perceive Ukrainian culture as an integral part of universal culture;

– the principle of social openness, which necessitates the harmonization of the content and methods of patriotic education with a real social situation;

– the principle of historical and social memory, aimed at preserving the spiritual, moral, cultural and historical heritage;

– the principle of inter-generational heritance assumes preserving the samples of Ukrainian culture, ethnic cultures of peoples living on the territory of Ukraine for the future generations.

Solving the tasks of national-patriotic education of young people depends on the use of various methods and means. With their help the purposeful pedagogical influence on the consciousness and behavior of youth is carried out, the formation of noble qualities and their enrichment with the necessary life experience is achieved.

Recently, the project "With Ukraine in the heart", involving students of all age groups, has been gaining significant popularity. An effective method of influencing the formation of patriotic qualities of children and young people is the reflexive-explicit method by I.D. Bekh [1]. The name of this method comes from the words: reflection (from the Latin reflexio) – thinking, directed into the inner world, self-examination; and explicit (from the Latin explicitus) – clear, available for external observation and understanding.

The essence of the reflexive and explicit method is that through the atmosphere of teacher's trust in the pupil, his confidence in their nobility, self-esteem, kindness and the improvement of everyday school life, to encourage young boys and girls to thoroughly realize their inner world (emotions, feelings , motives, values, needs, interests, desires, aspirations, ideals).

This method has the following steps:

– informative (cognitive);

– emotional-value (motivational);

– "me – challenge" stage (action);

– activity stage.

The cognitive stage is the means of manifestation of everything that the child has learned through the obtained knowledge and the surrounding world. A child may understand moral concepts well, having no desire to detect them.

The emotional-value stage involves the process of immersion into their inner depths, their comprehension and reorganization that is carried out under the guidance of a teacher, who activates the reflective thinking of children, and promotes the presentation of their results, that is, prepares their explication for the purpose of greater awareness and the provision of individual significance .

At the same time, it is impossible to ignore the problem of the Ukrainian language. An integral part of national education is the native language of the people - the invaluable spiritual wealth in which people live and share their wisdom, glory, culture and traditions from generation to generation. Language is perceived not only as a means of communication or as an instrument of expressing thoughts, but much deeper: as a means of manifesting the spiritual and emotional sphere of a person. Communication in the native language leads to an increase in the national consciousness of the student, forms his dignity, high moral qualities of the Ukrainian. Language is the house of the nation. Language is a means of both affirmation and the destruction of the nation's mental authenticity, because it is an emotional, volitional and intellectual measure of sociogenesis, it enables a unique cognition of being.

2. Patriotic education of youth as a factor of ensuring national interests of Ukraine

An integral part of patriotic education is military patriotic education, focused on the development of readiness for the military service, as a special type of civil service. Its content is determined by the national interests of Ukraine and is intended to ensure active participation of citizens in protecting national security of Ukraine against external threats. Military patriotic education should contribute to Ukraine's defense capability, protection of its interests, mutual participation in peacekeeping and humanitarian operations together with the international community, will help to counter international terrorism, prevent military conflicts that threaten humanity, and create stability in the sphere of global foreign policy.

To accomplish this high mission, the military-patriotic education of the younger generation should be based on the spiritual and moral values of our society, include military and historical training; applied physical training; basics of military service; life safety etc.

Work on military-patriotic education of youth should be carried out in a complex manner, in a unity of all its components with the joint efforts of state administration, as well as educational establishments, families, public organizations and associations, the Armed Forces of Ukraine, and other security structures.

The aim of military patriotic education is the formation of a patriot-citizen of Ukraine ready to independently build it as a sovereign, independent, democratic, legal, social state, and to ensure its national security, to be aware of his rights and responsibilities, to protect them in a civilized way, to promote the unification of the Ukrainian people, peace and harmony in society.

The purpose of patriotic education is specified through the system of such educational tasks:

– affirmation of patriotic values, beliefs and respect for the cultural and historical heritage of Ukraine in the consciousness and feelings of the personality;

– respect for the Constitution of Ukraine, Laws of Ukraine, state symbols;

– raising the prestige of military service as a form of civil service, and in such a way cultivating the attitude towards a soldier as a civil servant;

– recognizing and promoting the rights of the child as the highest value of the state and society;

– awareness of the relationship between individual freedom, human rights and his patriotic duty;

– facilitating the acquisition of patriotic experience by children and students on the basis of their desire to participate in the processes of state formation, the ability to determine the forms and methods of their participation in the life of civil society, communicate with social institutions, authorities, the ability to comply with laws and protect human rights, readiness to bear responsibility, ability to resolve conflicts in accordance with democratic principles;

– formation of ethnic and national consciousness, love of the native land, state, family, people; recognition of the spiritual unity of the population of all regions of Ukraine, unity of cultural heritage and future;

– development of a tolerant attitude towards other peoples, cultures and traditions;

– the affirmation of humanistic morality as the basis of civil society; cultivation of the best features of Ukrainian mentality – hard work, freedom, justice, kindness, honesty, careful attitude towards nature;

– formation of linguistic culture, mastering and using Ukrainian language as the spiritual code of the nation;

– motivation of a growing person to actively counteract immorality, offense, chauvinism, fascism.

The concept of military patriotic education in the Armed Forces of Ukraine is a scientifically grounded system of views on the theoretical and methodological, organizational and other principles of this sphere of education and the tasks of the military bodies in carrying out the relevant activities in order to increase the moral and psychological potential of the Armed Forces of Ukraine, the patriotic consciousness of the personnel, their willingness to protect the Ukrainian state.

The basis of military-patriotic education in the Armed Forces of Ukraine is the formation of patriotism as a high-ranking spiritual value, manifested in the deep love of a citizen to his homeland, a conscious need and an effort to strengthen and protect it.

Further on we will mention some problems of patriotic education of children and youth.

It can be stated that during the years of independence of Ukraine, the preconditions for updating the content and technologies of patriotic education, the formation of humanistic values and the civic attitudes of the younger generation have been created. A person as the highest value emerged in the center of the patriotic educational process.

The basis of the system of patriotic education is the national idea as a consolidating factor for the development of society and the nation as a whole.

Due to the content characteristics of the subjects of the social and humanitarian cycle, and especially of civic education, the patriotic competence of the student youth has increased.

The public nature of patriotic education has become more profound, educational institutions have opened their doors to parents, public organizations. The number of subjects of educational influence has increased, the coordination of their actions has increased as well. All-Ukrainian events, actions aimed at activating the patriotic, moral position of children and student youth are being successfully implemented.

Widely used forms and methods of education are based on folk traditions, the best achievements of national and world education and psychology.

The state interest in the education of patriots of Ukraine has increased significantly, whereas a social order has been formed for the development of effective technologies for the patriotic education of the younger generation.

Along with the positive changes in the system of patriotic education, certain contradictions and new significant problems appeared. The most significant of them, in the context of the educational process, is that the current growing generation gets older, enters into a life of a new society with unspecified values. The old social system is destroyed. The new one is just declared by the Constitution. In reality, the transition from a state-planned to a market economy against a background of legal nihilism was accompanied by unprecedented corruption, which became the main mechanism of fraudulent distribution of public property, the flagrant plundering from the Ukrainian population and the establishment of an oligarchic-democracy regime.

As a result, the number of Ukrainian people, brought to poverty, decreased by more than five million people without a war (that is one out of ten Ukrainians). In this situation, the term “patriot” is often used with irony. No political force in Ukraine has yet taken the courage to predict the prospects for Ukraine for least 25 years ahead.

Therefore, the young people do not know, neither in what social system they will live, nor what course our country will take in the near future. It creates in young people the uncertainty about tomorrow, psychological discomfort, the complex of national minority and personal inferiority, despondency in civilized life in Ukraine, the desire to leave their Motherland forever. Therefore, without their civic self-determination, patriotism, national consciousness, culture of interethnic relations, neither the desired stabilization in society nor its development will take place.

Moreover, such objective reality as the lack of ethno-national ideological unity and the corresponding social consolidation does not contribute to the development of the patriotism of the younger generation.

The analysis of educational practice shows that a significant number of teachers are convinced: the eternal concepts ¬ Motherland, ¬Patriotism must dominate the consciousness of citizens and prevail in the educational process of the school, they become powerful factors for the development and consolidation of the Ukrainian state.

Patriotism is an important quality of the personality of a Ukrainian citizen, containing value, emotional-sensory, intellectual, volitional, motivational and activity components. It manifests itself in the concrete actions and activities of a person born from the love of his "little homeland", patriotic feelings, passing a number of stages on the way to his maturity, ascend to universal patriotic consciousness, to a conscious love of Ukraine, readiness for active participation in its life. Patriotism harmoniously combines the best national traditions of the Ukrainian people with devotion to the Motherland and readiness to protect it. Patriotism is intended to give a new impetus to the spiritual improvement of the people, the formation of a civil society in Ukraine, which involves the transformation of the civic consciousness, moral, legal culture of the individual, the development of national consciousness and is based on recognition of the priority of human rights. Society, which operates on the principles of humanism, freedom, rule of law, social justice, guarantees the conditions for the growth of the welfare of the people. Society, which is the only effective mechanism for the development of a non-oligarchic, but popular democracy, legal Ukraine, acts on the one hand as an opposition source to the state authorities, and on the other – it complements it, implementing its developmental and controlling functions.

Taking into account the above mentioned, patriotism is at the present time an urgent need for a state that requires that all children become nationally conscious patriotic citizens capable of providing the country with a decent place in a civilized world; and a person who, with his active love of the Motherland, seeks to achieve reciprocity in order to create conditions for free self-development and preservation of individuality; and society,

interested in the self-development of the individual and formation of his patriotic consciousness on a moral basis.

The urgency of the formation of patriotic education is conditioned at the same time as the process of the development of Ukraine as a united political nation. In a multi-ethnic state, it is intended to promote the integrity, unity of Ukraine, which is the core of the Ukrainian national idea. At the same time, it is important that the unification of different ethnic groups and regions of Ukraine for the national rebirth, development and improvement of a sovereign rule of law and civil society is carried out on the basis of democratic values, which in turn should form the basis for patriotic education.

As patriotism is now of particular importance, there is an urgent need for further development of the conceptual content of military patriotic education that would determine the strategy of a purposeful and effective process of development of a civil society entity, a citizen-patriot of Ukraine, a defender of his Motherland.

Modern patriotic education should be to some extent characterized by a pro-active role in the democratic process. It must become a means of revival of national culture, the cessation of social degradation, an incentive to awaken such moral qualities as conscience, humanity, self-esteem; means of self-organization, personal responsibility; the guarantor of civil peace and harmony in society.

The main tendency of patriotic upbringing is the formation of the value relation of an individual to his fellow-citizens, the Motherland, the state, the nation, and the comprehensive protection of his interests.

The process of formation of value orientation is an integral part of the development of the growing personality, his relations, orientation, emotional and motivational sphere.

Adolescents aged 12-15 years are most sensitive to peculiar features of the social situation, which provides them with different directions of self-development. Some tension in the social situation leads to a variety of deviations in the personal development and behavior of the adolescent. Among them, special anxiety is caused not only by progressive alienation, increased anxiety, spiritual devastation, but also by the cynicism of adolescents, their cruelty, aggressiveness. In this case, aggressiveness appears in most cases as a substitution situation when a teenager is not admitted to the world of socially meaningful adult relationships. Moreover, the teenager seeks not only attention, but also understanding, trust of adults. He wants to play a certain social role not only among his peers, but also among the elders.

In adolescence, spiritual-minded, reflexive patriotism is brought up, which unites the love of your fellow citizens, the nation, the Motherland with a sense of respect for other peoples, your own and other's rights and freedoms. In early youth, the person turns into a developed individual, acquiring the social experience, making it his property, that is, expanded socialization. In the same period, boys and girls are gaining ever greater independence, relative autonomy, that is, their further individualization takes place.

Younger boys, who are violently experiencing maturation, are increasingly uneasy and insecure in the modern world. With age, the crisis phenomena of a teenager disappear: irritability, negativism, suspicion, a sense of hostility. A person acquires certain age stability. But fear for the future in the youthful age causes an irritation, insult, hostility towards oneself and society. By 16 years, the direction changes sharply, making them selfish with an individualistic accentuation, which means the positive attitude of younger boys to themselves (they value themselves), but their negative attitude towards others. And although they do not completely deny themselves, they feel the "hostility" of society itself.

In the early adolescence, on the basis of qualitative and quantitative changes, intensive development of self-understanding takes place. Young people care about finding answers not only to the question "Who am I?", "What am I?", but also to the question "Why me?" The very content of such questions actualizes in young people the process of self-understanding. Young men (girls) distinguish the system of knowledge on the basis of their social essence and uniqueness instead of awareness of their own individual features.

Young people, in different ways and at different levels, tend to define their place in society. It is possible for them in the framework of self-awareness through a demonstration of their role, their status. Senior pupils think of themselves more generally, and first of all about those personality traits that will help them take a place in life and society. The central personal quality of high school students is considered to be social responsibility. Therefore, in the senior school age, priority values of the value attitude towards the Motherland are the responsibility and effectiveness. Senior pupils not only identify themselves with the Ukrainian people, but also want to live in Ukraine, to associate their fate with her, to serve their Motherland on the way to its national democratic revival; work for its benefit, protect it; respect the Constitution of Ukraine and comply with the Laws; to take a cautious attitude to the ethno-ethnic culture of the peoples of Ukraine; have a native state language; to recognize the priorities of human rights, to respect freedom, democracy, justice.

Thus, the patriotic education of young people is a systemic and purposeful activity of state authorities and local self-government bodies as well as public patriotic organizations aimed at developing high patriotic consciousness, a sense of loyalty to your Motherland, and a readiness to fulfill the constitutional duty to protect it. Patriotic education involves the formation of a corresponding complex of personal qualities, socially significant motives of behavior, harmonious combination of state and personal interests, overcoming of negative processes and phenomena in the spiritual sphere of society and the Armed Forces of Ukraine. Nowadays it is the right time to look for new approaches and ways to educate patriotism as a feeling and as a basic quality of personality. This is due to the integration processes taking place in Ukraine; Eurocentricity; the development of civil and public initiative, the emergence of various civil movements; the dissemination of volunteering activities, etc.

Patriotic feelings, which are particularly aggravated in complicated, extreme, fateful situations for the Motherland, unite people, urge them to put common needs above the personal ones, reduce selfishness.

In modern conditions, the emotional beginning of patriotism manifests itself in the courage, determination, and willingness of Ukrainian citizens to protect the independence of their state by all possible means.

Particular responsibility for the fate of the country belongs to the youth. Young people ensure the social mobility of society and are a source of initiative and improvement in all the spheres of public life.

Nowadays, one of the necessary conditions of youth involvement into the public life is the development of their self-organization and social activity.

Social activity – is a set of forms of human activity, consciously focused on the solution of tasks the society is faced with. Social activity can be found in various spheres: labor, socio-political, and cultural.

Today, of utmost importance are the search and development of modern approaches to the creation of qualitatively new foundations in educational activities for younger generations focused on the updated structure of their values and interests corresponding to the most important tendencies of the development of our society.

In his paper devoted to the patriotic education of youth, Vaneev O.N. defines the following types and forms of youth activity [7]:

- participation in various youth organizations, student self-government bodies and coordination councils;
- youth social projects on a voluntary basis;
- volunteer projects.

In the process of participation in social projects, young people get the opportunity to self-fulfillment, to establish connections and communications, and to enhance their creative potential.

The tasks of patriotic education are also aimed at increasing social activity of young people:

– affirmation of patriotic values, beliefs and respect for the cultural and historical heritage of Ukraine in the consciousness and feelings of the personality;
– respect for the Constitution of Ukraine, Laws of Ukraine, state symbols;
– raising the prestige of military service as a form of civil service, and in such a way cultivating the attitude towards a soldier as a civil servant;
– development of a tolerant attitude towards other peoples, cultures and traditions;
– the affirmation of humanistic morality as the basis of civil society;
– cultivation of the best features of Ukrainian mentality – hard work, freedom, justice, kindness, honesty, careful attitude towards nature;

– motivation of a growing person to actively counteract Ukrainophobia (Anti-Ukrainian sentiment), immorality, offense, chauvinism, fascism etc.

Thus, the development of national patriotic education is a systematic educational activity in which a young person gradually realizes his belonging to a family, team, class, school, people.

Consequently, patriotic education is a social activity that develops the attitude of a person towards himself, his people and his homeland. This attitude manifests itself in the respective feelings, beliefs, and ideas.

The formation of patriotic education in modern conditions should be the core of all educational work, since we should educate a person with a sense of pride in his state, faithfully fulfilling civil obligations, realizing the social needs of the Motherland and the Ukrainian people, loving his family and friends. Without all these, the person has no a face, he loses himself.

Patriotism is a lifestyle.

Therefore, new challenges for national patriotic education can be considered as the following: citizens of Ukraine need to learn to live in mutual respect; the main task of modern patriotic education is to develop in children and adults the conviction that the power of Ukrainians consists in their unity; it is necessary to start building a state based on constitutional patriotism; common values, rules of the game, lifestyle.

Patriotic education of modern youth is a complex, systematic and purposeful activity of public authorities, public organizations, families, schools, and other social institutions aimed at the formation of a high patriotic consciousness in the young generation, a sense of loyalty, love for their Motherland, caring for the good of their people, willingness to fulfill the civil and constitutional duty to protect national interests, integrity, independence of Ukraine, assist in its development as a legal, democratic, social state.

Like patriotism itself, patriotic education is specifically historic. A multifaceted analysis of the scientific works of scholars dealing with the problem of patriotism, the actualization of individual factors involved in the upbringing of patriotism, allowed us to synthesize a modern conception of this phenomenon. The most profound factors that influence the development of patriotic feelings are natural-related factors. Man as a biological being belongs to the natural world. His family ties, life in a certain geographical landscape and a spiritual connection with it, willingness to protect his loved ones – also belong to the same world. Socialization and urbanization change the essence of natural factors, but they still continue to actively influence the formation of patriotism. Family ties are expanding due to the surrounding community, however family is always of top priority. Love for the native land is manifested in love for the native home, native school, native street and the city. This is the primary state of patriotism. A child acquires his patriotic experience spontaneously. He naturally and imperceptibly gets used to the surrounding environment, native word, life and traditions of his people.

These factors, combined with cultural and educational ones, develop the basic psychological commitment of a person to his nation, form his spiritual treasures. It is obvious that in order to establish an independent Ukraine as a single nation, it is necessary to formulate in the mass consciousness of the younger generation not nature-related patriotism, but spiritually meaningful, reflexive one, which would combine passionate love for their people, the nation, the Motherland with a sober sense of respect for other nations. Only such a patriotism can solve a number of problems of a young state.

Thus, the upbringing of the patriotism of the rising Ukrainian generation depends on natural, social, cultural, educational and other factors. Their objective consideration and scientifically grounded implementation in educational activities in combination with freedom of personality, democracy, humanism and the rule of law should be achieved. Therefore, the core of national education must consist in the development of a nationally conscious patriot citizen, humanist and democrat. The analysis of the methodological and information base in the sphere of patriotic education of citizens helps to determine the main priorities of the system of patriotic education of youth under the new socio-economic conditions, its content, organizational and pedagogical bases of functioning, directions of its improvement. Development of models implementing the main directions of activity of the respective state institutions and public organizations dealing with the patriotic education of citizens in the regions of the country, including analysis of the technologies and methods used, generalization of the results of its testing are based on the following directions:

– The first group – the directions determining the activity of the subjects of patriotism formation in society as a whole.

– The second group – the directions determining the nature of the efforts of the whole society and, first of all the state, to change the functionality of spheres of public life, patriotic sentiment affecting the formation and behavior.

– The third group – the direct patriotic education of the citizens of russian origin (in the family, school, university, army, enterprise, institution, organization, etc.).

The first group of directions for the patriotism formation is as follows:

1. Ideological direction of approval of patriotism as one of the most important socio-political values of Ukrainian citizens. It implies:

– All the revival and orientation of the patriotic idea of communication with the interests of society, state, every person;

– more active use of elements of patriotic education; the involvement of mass media in this work, overcoming some existing stereotypes and negative plans;

– preventing the attempts of various political forces to use the patriotic ideas to "attract" different layers of society (especially the army and its officer corps) on their side;

– preventing attempts to discredit, devalue the patriotic idea of state and public figures in the media, literature and art, with enormous potential of intellectual and emotional impact on the mass consciousness; purposeful and creative use of the positive possibilities

of the idea of patriotism in the process of carrying out educational activities with all citizens of the country with the active participation of society, state institutions and others.

2. Scientific and theoretical direction of activization of the theoretical research in the sphere of patriotism formation as a scientific problem and as a practical activity for the purpose of its qualitative integration into the context of the most important changes that have already taken place and are taking place right now in society. This implies: the rationale and enrichment of the content of patriotic education by incorporating it in the cultural-historical, moral, psychological, etc. components of the most important achievements in the field of social and humanitarian sciences; the involvement of Ukrainian citizens into patriotic values created in the main spheres of social life, their spiritual development; the development of models of a patriot citizen with a set of certain interpersonal qualities and so on.

3. Pedagogical and methodical direction, including:

– fundamental development of a complex of educational and special programs, methods for organizing and conducting patriotic education, taking into account the peculiarities of various categories of Ukrainian citizens;

– constant generalization of the results of this work and purposeful informing of those involved in the formation of patriotism, and, first of all, educational institutions, organizers of mass patriotic work, etc .;

– development and improvement of forms and methods of patriotic education, optimization of educational work with all the categories of citizens; regular publication of the relevant literature containing the pedagogical foundations for organizing and conducting this activity, taking into account innovations, advanced educational practice (domestic and foreign);

– organization of training of educational staff capable of solving the tasks of patriotic education in an active manner and on a high quality level, etc.

4. Organizational direction ¬ creation of appropriate mechanisms for the consistent implementation of a number of measures to enhance the process of patriotism development among Ukrainian citizens. Realization of this direction implies:

– a significant increase in the level of organization and functioning of the separate elements of the system of patriotism formation, as well as the system itself as a whole;

– ensuring its interconnection and interaction with the system of education (moral, physical, environmental, military, etc.), and with other elements of the state structure and social institutions;

– creation of organizational foundations for the management of the formation of patriotism in order to design and implement a general strategy for such activities, to combine efforts among its various participants, as well as to provide them with the necessary assistance and support, especially in solving specific problems, etc.

5. Normative and legal direction ¬ creation of the legislative basis for determining the socio-legal status of patriotic education as one of the most important directions of socially significant activity of the state and other subjects of the patriotism formation. This sphere includes:

– determination of the role, place, socio-legal status, tasks, functions of each body, organization, departments as components of a unified system of patriotism formation taking into account their specifics, as well as changes that have taken place in the country in recent years and those happening nowadays;

– creation of a specific legal and regulatory basis for patriotic education; development of the regulatory and legal mechanism of the relationship and interaction of the subjects of patriotism formation in this system, etc.

6. Financial and economic direction involves the appropriate allocation from the state budget and the funds of executive bodies of Ukraine, all authorities and organizations directly involved in the patriotism development.

The second group of directions of patriotism formation implements the efforts of society and the state in creating the necessary conditions for optimization of this process in all the aspects of social life, and, first of all, in the economic, social, political, spiritual and military spheres. Finding the way out of the current economic and socio-political situation, getting back the status of Ukraine can be possible only due to the formation of national pride for the country, and therefore, the true patriotic outlook of every member of Ukrainian society. In the sphere of economy, the main task is to create the most favorable conditions for meeting the needs of the population, improving their material well-being.

In the sphere of socio-political relations, the main task is to create a credible democratic state, functioning on an equal basis within a highly developed civil society.

In the spiritual sphere, the main task is to revive the dignity and spiritual potential of the nation, which in the years of hardships saved Ukraine, consolidated all political forces, all layers of society, and helped to overcome severe crises.

The third group of trends in the formation of patriotism includes the main priorities of educational work with all the categories of Ukrainian society. Among them: the formation of value orientations and priorities of adolescents and young people in formal and informal education; providing Ukrainian citizens with profound knowledge of the essence and history of their Motherland; formation of patriotic feelings; education of volitional and moral qualities that ensure practical implementation of patriotic ideas and feelings.

Thus, the state-patriotic ideology is a theoretical system, not imposed by the subjective will of the ruling elite. In general, it is a system of knowledge, views, ideas, social attitudes and feelings, acting as a concentrated expression and the theoretical substantiation of national values, vital interests of the individual, society and the state, aimed at achieving prosperity of the Motherland, the approval and strengthening of the democratic and legal foundations of Ukrainian statehood, ensuring the strong position of the country in the world.

The process of patriotic education is a natural extension of existing traditions and it does not start from nothing at every stage of social development. Therefore, the optimal way to improve the system of patriotic education is to identify the most important factors influencing the process of educating patriots, developing patriotic education models based on accounting of these factors and developing recommendations to ensure the proper conditions for the implementation of these models.

Based on the analysis, the following general pattern of patriotic education under the current conditions in Ukraine is offered:

– information components of the model (information bases, information support, sources of information, etc.);

– structural and system connections of components (target tree, hierarchy of information sources etc.);

– organizational components (subjects of patriotic education);

– organizations, collectives; forms of creative / public associations);

– methodical components (methods / complexes of techniques, optimal for this sphere, ¬ regional, socio-cultural, cultural and so on).

Regional model of patriotic education of youth and adolescents can be considered as follows:

– preservation and transfer of traditional values in the process of patriotic education on the basis of the available information on an example of a separate region;

– structural-system connections of various types of information / media texts in the process of teaching youth patriotism at the present stage of development and formation of the information society in Ukraine;

– variable model of regional subjects of youth patriotic education and clarification of their role in the implementation of cultural, ethno-cultural, economic and legal aspects of self-determination and self-realization of the person in the process of patriotic education;

– a complex of methods that are most effective for self-determination and self-realization of a person in the process of patriotic education in modern conditions, and the principles of their selection in relation to the typological features of the region.

As conditions for implementing this model, the mechanisms of interaction of regional subjects of youth patriotic education at the present stage of development and formation of the information society in Ukraine (cultural institutions, cultural-leisure organizations, various organizational forms of non-formal education) are offered.

Regional subjects of patriotic education: institutions of culture; leisure organizations; public associations; military patriotic associations; sports and patriotic associations; schools / centers of patriotic education of the local state bodies; informal public associations; creative teams (studios, editions of youth mass media, sites of patriotic orientation, and so on); temporary project teams.

The proposed hierarchy of regional subjects of patriotic education implies both the detailed horizontal fulfillment of the tasks of patriotic education in the regions and the vertical of their relations – the overall interaction at the level of the media space of the region, where each subject has equal rights both for information provision and information coverage of their activity. The unity of the process of patriotic education is determined by normative information bases that define the complex of values and value orientations most relevant to the specific region. Information and methodological resources provide a specific spectrum of activities (based on the capabilities and needs of a particular region) and make selection and dissemination of methodological experience.

The ethno-cultural model of patriotic education of youth and adolescents includes:

– information components: information bases dealing with ethno-cultural education, ethno-cultural aspects of globalization process, dialogue of cultures, national / ethnic features, traditions and so on;

– structural and system connections of model components (target tree: the levels of interaction between organizations engaged in patriotism education taking into account ethno-cultural aspects; the variation model of transition from ethno cultural patriotic education to a certain ethnic group prior to the education of a Ukrainian citizen who realizes himself as a full member of a multinational state;

– organizational components of the model (subjects of patriotic education – organizations, collectives, forms of creative / public associations); methodologies / complexes of methods devoted to the ethno-cultural aspects of the patriotic education; educational methods dealing with the dialogue of cultures (based on the method by V.S. Bieberer and his followers), optimal for this sphere, regional, socio-cultural, cultural, etc).

The specificity of the ethno-cultural model of patriotic education of youth and adolescents consists in following.

This model is local according to the sphere of implementation and is intended to be used in a socio-cultural space of a single ethnic group (collective, creative team, educational institution, etc.).

Regional subjects of patriotic education are: institutions of culture; cultural and leisure organizations; public associations; schools / centers of patriotic education at the local state bodies; informal public associations; creative teams (studios, editions of youth mass media, sites of patriotic orientation, and the like); temporary project pupils / youth teams; military patriotic associations; sport-patriotic associations.

The suggested hierarchy of regional subjects of patriotic education in the ethno-cultural aspect implies an equal role of both "official" initiators of events (cultural institutions, cultural-leisure organizations, public associations) and other subjects of patriotic education. In connection with the special mechanisms of national culture functioning in the modern society, the sport-patriotic and military-patriotic associations play the smallest role in this model, although they may well be participants in ethnographic festivals and other events of ethno

cultural orientation. Nevertheless, the leading role in this model belongs to creative groups, informal public associations, cultural and leisure studios etc. The coherence of patriotic education in this case is determined not so much by the normative information bases that define the complex of values and value orientations most relevant for this region, but also by the cultural roots of the ethnos, the cultural-specific features of figurative forms of perception of the world and social traditions of the ethnic group. Information and methodological resources offer a specific spectrum of activities (based on the capabilities and needs of the region), the selection and dissemination of methodological experience. Particularly important are materials dealing with folk customs, national traditions, history of ethno cultural formation of the region and its importance for the multinational culture of Ukraine. Principles of selection and formation of a set of techniques that are most effective for self-determination and self-realization of a person in the process of patriotic education nowadays in relation to the ethno cultural features of the region are as follows.

The network model of patriotic education of young people is highlighted in connection with the formation of new conditions of human life in the post-industrial society of the open information space, information "overload" of the personality and so on.

This model is universal from the point of view of its implementation and is designed for a single informational socio-cultural space.

Defining the information components of the model, it is worth mentioning that its peculiar feature is a rapid change of the open information space. Databases available today may lose their relevance tomorrow and become useless; stability in the information world is rather relative. Often this very instability, dynamism of the world information and new information technologies attracts young people and adolescents. It is even more important to offer a model that will allow adolescents and young people to adapt in the open information space, to develop information exchange strategies that do not contradict national and cultural traditions, to help understand and master the world of patriotic values through their own choices, both as sources of information and practical (creative) activities.

Structural and system interaction of information components of the model:

Subjects of patriotic education within this model should be divided into four main categories: teams of site developers; administrative bodies and organizations; electronic media; individual users (children, teenagers, youth).

Organizational components of the model (subjects of patriotic education – organizations, collectives of cultural and leisure centers, forms of creative / public associations); suggested organizational forms of work – courses, free discussions, forums, patriotic games, creative forums, literary network contests on patriotic topics and so on.

An important feature of the open information environment is its interactivity (feedback, availability of a "free choice of the information trajectory"), which often creates in teenagers and young people the illusion of "objectivity" of information received from various information sources. That is why the development of information culture, critical

thinking, ability to analyze and interpret the information received – is a priority task while designing this model. It is also very important that this model, only partially affects the process of patriotic education and the formation of value orientations, which begins long before your "visit" into the open information space and continues after it. However, staying in the world of "electronic communication" is extremely important for today's younger generation. And here it is equally important to provide information which should help the process of patriotic education (on official sites, in the media), and give ideas for independent thinking, verification of inaccurate information, denial of any form of aggression, manifestations of intolerance towards people of other nationalities, etc.

Principles of selection and formation of a set of techniques that are most effective for self-determination and self-realization of the personality in the process of patriotic education in the open informational space are as follows. As the condition for this model implementation, mechanisms of interaction of network subjects of youth patriotic education (both collective and individual), optimal for the modern stage of development and formation of the information society in Ukraine are suggested.

The leading role in this model belongs to individual users. The function of organizing discussions with an appeal to an open information space, the formation of the foundations of critical thinking remains with creative groups, informal public associations, cultural and entertainment studios.

Conclusions.

Historically, the national-patriotic education of the younger generation has attracted the attention of researchers. This issue has always been and still remains "number #1" for every society, regardless of the time of existence, territorial boundaries, structure, power, etc. It is also relevant for modern Ukrainian society.

Successful solving of the issues dealing with youth patriotic education is possible only with the creation of a relevant scientifically substantiated system, based on the principle of pedagogical and vital expediency. The increased attention to the problem of patriotic education of the younger generation is due to the fact that nowadays, not only developing patriot citizens from the younger generation is important, but also the actualization of responsibility for the fate of their fellow countrymen and the country as a whole.

The power and effectiveness of patriotic education are determined as deeply as the national idea penetrates into the spiritual world of a young person during his development as a citizen, how deeply he sees the world and himself as a patriot of his country. The dialectical unity of the three components of patriotism: knowledge – experience – acts determines the profundity of this feeling. The quintessence of the national consciousness development of young people in a higher educational institution is the organic combination of a the set of educational opportunities of each individual subject and the efforts of the teacher in order to comprehensively influence the consciousness, feelings and behavior of a young person.

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INSTITUTIONAL DETERMINANTS OF STATE POLICY TO REGULATE SERVICES MARKETS

Abstract. *A study of trends and methodological approaches to solving the problem of increasing the efficiency of state regulation of service markets has been carried out. The theoretical and methodological foundations of public policy formation, focused on the development of a competitive environment. The aim of the study is to substantiate the principles of state regulation of service markets and institutional support for the development of entrepreneurial activity. Creating a modern effective institutional system that ensures economic security involves building a corresponding set of institutions and mechanisms (economic, control) to ensure it on the basis of taking into account economic security factors and corresponding methods (administrative, organizational and institutional) of the state economic policy. The strategic task of shaping the state policy of entrepreneurship development to ensure economic security in the context of transnational integration in the service markets involves the creation of an adaptive institutional model for ensuring economic independence and respect for national interests.*

JEL Classification: E02, E60, G18, O17

Introduction.

Methodological substantiation of scientific positions and methodical approaches to solving the problem of increasing the state regulation of service markets which corresponds to real interests of a business, a government and society, is conditioned by objective prerequisites and factors. Firstly, by the need for the in-depth researching of the transformational processes of innovation activity and investment intensification into the services market, which is conditioned by its convergent development, on the one hand, and, on the other hand – by intensification of the institutional and legal basis in the regulation of cooperation and integration of market entities. Secondly, the permanent change of the branch structure, forms of economic activity and methods of organization of cooperation requires an analysis of the interaction of the market self-development mechanism and state regulation of entrepreneurial activity with the achievement of optimal regulatory influence on the competition nature in the services markets in the conditions of oligopoly. Thirdly, the tendencies for network interactions of business entities require substantiation of the institutional environment formation foundations for the development of entrepreneurship, based on the entry barriers leveling for market entities and the restriction of competition from enterprises that are grouped in the business network.

The result of the gradual increase of economic activity and competition in domestic markets is the development of contracting economic activity forms, which are outlined by the state policy directions of their support and institutional provision. The works of J. Anderson, H. Håkansson, J. Johanson, R. Emerson [1], who considered relations in business networks, are devoted to the analysis of the integration processes development and the formation of business networks as subjects of industry competition. The questions of the business networks competition in the markets and the institutional aspects of entrepreneurship development are revealed in the fundamental researches of the scientists J. Commons [6], P. Klein [14].

The liberalization of the high-tech industries and changes in the structure of the concentration in the direction of strengthening integration processes have contributed to the fact that the further efficiency maintenance of the economy functioning requires an optimal combination of the market self-development with the state regulation of the competition development. The above-mentioned actualizes an in-depth researching of the effectiveness of the regulatory policy of stimulating entrepreneurship in creating equal conditions of competition in the markets, some aspects of which are reflected in the scientific works of M. Porter[25], J. Tirole [29]. Nevertheless, theoretical and methodological principles of the state policy formation focused on the development of a competitive environment in the process of interaction of business networks, mechanisms of antimonopoly regulation of corporate structure in oligopolistic markets with the identification of threats in the national security field in the implementation of integration agreements remain insufficiently researched. In addition, further research is required by the mechanism of competitive interaction in the markets and directions of their state antimonopoly regulation, systemic means of preventing the institutional inefficiency of the business environment in the effective development of contractual relations and optimization of transaction coasts and overcoming the contradictions among the interests of all interested parties which largely determine the entrepreneurial potential and the increase dynamics of competitiveness of national economy branches. Insufficient theoretical and methodological elaboration and significant practical significance of the issues related to the research of the problems of services' markets state regulation which is of particular importance in the context of the search for sources of competitive advantages as an important factor in improving the efficiency of functioning in the conditions of high-tech economy, have determined the relevance of the research.

The purpose of the research is a substantiation of the principles of the state regulation of the services markets and institutional support for the development of entrepreneurial activity. To achieve the goal in the research the following tasks are set: to develop a methodical approach to the choice of state regulation instruments of competitive relations in the services markets; to develop scientific and methodical provisions concerning the analysis of institutional environment of the telecommunication services market based on the assessment of transactional coasts of market participants; to substantiate the methodological approach to state regulation of entrepreneurial activity on the basis of analysis of regulatory influence on competition.

1. Economic theories of development directions of entrepreneurship forms: from competition to co-operation

Modern economic science the methodological system of which is a comparison of the neoclassical and institutional-evolutionary paradigms, and on a relatively small historical interval of dominance of one of them, is characterized by growing pluralism which is based on the diversity of research approaches, theories, and so on. The eclectic structure of economic science and the rejection of the possibility of a universal method of cognition shift the emphasis from the unity of the theory on the coexistence of competing concepts because of the impossibility of explaining modern socio-economic processes and their changes.

At the macro and micro level, the state provides institutional conditions for development of entrepreneurship effective forms, which promotes the acquisition of benefits from cooperation by economic agents as opposed to self-employed market. As part of the organization's theory of transactions, one of the important directions of neo-institutional analyses, are revealed the main forms of their management: a market and a hierarchy focused on three variables – the specificity of capital, uncertainty and frequency of transactions that determine the effectiveness of a particular form of economic activity organization [6].

The neo-institutional theory has substantially deepened the research of the peculiarities of cooperation forms, first of all, by reducing transaction costs (the time for choosing potential counteragents, measuring costs, contracting) that increase with the growth of market imperfections and inefficiencies of the state [5].

Expansion of the existing of the transaction costs theory with the cooperation growth in entrepreneurship allowed identifying the directions of the formation of integration due to the unreliability of the legal institutions of contract execution. With the help of the R. Coase`s [5] internalization theory it is possible to explain the main provisions of the integration structures formation through: the expediency of horizontal integration of market entities and reducing transaction costs [14].

Therefore, from the point of view of the agency relations and property right theory which has considered in the works of M. Jensen and W. Meckling [13], it is important to ensure the implementation of managing mechanism of entrepreneurial activity development by reducing the costs of opportunistic behavior and conflicts between the principal and the agent in the conditions of information asymmetry.

The factor that caused the development of co-operation was the change in the market behavior of the entities, and in the conditions of information society – the concentration of activities in relatively specialized directions and customer orientation which facilitates the process of outsourcing interaction of business structures in the industries. With the further deepening specialization, the processes of interaction of business structures acquire cooperative forms through the coordination of their activities.

However, despite the high level of risk, the additional arguments for the use of co-operation are the recognition by many researchers [8] of the fact that it is possible to reduce transaction costs within the framework of such an association and, in the uncertainty, – to assess the effectiveness and control of agents, which do not redistribute market risks on the one hand, and on the other hand – limit opportunism through the unification of the exchange (transfer) of knowledge and skills, that is, the routine, of all participants in the network, as well as the evolutionary theory of economic changes by R. Nelson and S.G. Winter recognizes their existence and importance to the functioning of the market organizations [23].

In the theory of M. Hanan and J. Freeman [11] the positions of the absence of one optimal organizational form in the course of market competition are singled out, since the dynamics of organizational environment in different conditions involves different forms. The process of dynamic changes in the evolutionary economy is under the influence of innovators who are available in the economic system. Therefore, the evolution of representations of entrepreneurship in the system of innovation and technological development factors is disclosed in the theory of J. Schumpeter [27], in which innovative developments determine the technological basis of the industry and strategic and organizational resources, which, in turn, according to the concept of H. Chesbrough [4], are the basis of the transition to the level of end-users and open innovations.

In subsequent researches, based on the idea of J. Schumpeter [27], the mechanism of creating of innovations in network business structures is revealed, the effectiveness through the formation of the configuration of their relations within the business association, which allows to distribute risks from the development and implementation of innovations among all parties. Subsequently, representatives of the evolutionary approach to economic growth turn to the conceptual review of the innovation process in the organizational-institutional context reflected r in the framework of structural and institutional analysis. The problems of innovations development were not limited to considering the influence on them of scientific and technological progress and the change of institutions in the presented concept of R. Nelson and S. Winter [23] as a developing direction of the theory of innovations by J. Schumpeter [27], but also more thoroughly researched is the organization of entrepreneurship as a complex system including contract system. In general, it can be argued that the evolutionary economic theory of R. Nelson and S. Winter [23] is related to the problem of not only evolutionary but also systemic and institutional approaches in the levels of micro or macro (meso) analysis allows selecting modern directions of economic thought from the problems of innovation systems in networks which are developed in a number of conceptual researches of clusters identified by the modern form of organization of production at the micro and macro level and a tool for assessing the growth of competitiveness of the sectors of the national economy as well as programs for the formation of an industrial group in meso-level for the purpose of disseminating innovations.

In addition, the scientific and theoretical positions of E. Dahmen and E. Limer [397] on the basis of macro-analyses of the region (branch specialization) within the framework of the association of companies from different fields, combined in a rapidly responding to a dynamically changing world market economy system and represent industry sectors or totality of sectors on the high level of aggregate.

The important thing is also the systematic integration theory in which an analyses of the institutional and systemic process of integration across the states is being carried out, which is currently being implemented in the form of the European Union, etc.

The founders of the economic evolution theory R. Nelson and S. Winter [23], J.Schumpeter [27] singled out the unit or object of evolution – a company whose behavior is determined by routines whose action over time modifies its functional characteristics while at the same time the principal actors in the change of routine are innovations. The presentations of mechanisms for the transfer of knowledge and technology are raised in researches of inter-organizational relations within the business network because the combining in joint activities not only resources but also knowledge and skills significantly reduces the probability of opportunism.

The need for cluster policy by government agencies and the support of research organizations are the main imperatives to improve the conditions for the sustainable development of clusters and of the economy of the country [25]. Subsequently, scientists repeatedly turned to the analyses of theoretical and practical cluster research but a significant impetus to development received the idea of M. Porter [25], which show that depending on changes in the external environment and market conditions, on the one hand, the development of innovations is stimulated, and on the other hand – even the formation of innovation cluster as an informal association of different organizations which may correspond to the triple model.

Dominance in the cluster economy is revealed in the concept of interaction of the added value chain by J. Humphrey and H. Schmitz who singled out the basic types of interactions between economic entities: market, network, quasi-hierarchical and hierarchical relations [12]. The cluster model is also disclosed in the researches of V. Ruigrok and R. Van Toulder which distinguish the concept of industrial complexes organized by groups of entities involved in a joint activity around the parent company [26]. Agreeing with the supporters of the dependence of the technical and economic development of clusters presented in the researches of A. Anderson and J. Mantsinen it is possible to select the level of interdependence of the development of the relevant markets of the national economy from the technical and economic paradigm [2].

Economic theories of entrepreneurship development is an example of evolving interdisciplinary science which is on the verge of sociological and economic, institutional and cluster approaches with the association of which it is possible to argue about the formation of a dynamic theory.

2. Theoretical analysis of transaction expenses and their regulation in entrepreneurship

The institutional basis of economic relations of market actors is characterized by transactions between entities at different levels of management based on formalized agreements or normative documents and informal institutions. Transaction costs that arise as a result of the economic interaction of domestic telecommunication operators grow because of the incomplete formation of the institutional foundations of market relations, which reduces the economic attractiveness of telecommunication innovation projects. In addition, the development of the domestic telecommunications market is constrained by the low level of support provided by institutional regulators of the development of transition economies, including the mechanism of institutionalization of relations that arise in the process of evolving forms of interaction between business entities. Therefore, the problem of transaction costs in the activities of telecommunications operators is of particular interest from the standpoint of theoretical research and the development of practical approaches to reducing them. The works of such scholars as R. Coase [5], T. Eggertsson [9], K. Menard, J. Roberts [22], O. Williamson [30] are devoted to the questions of transactions and transaction costs formation. Accordingly, methods for evaluating transaction costs and directions for their analysis are disclosed in the works of K. Menrad [22] and others.

However, the problem of regulation of transaction costs in entrepreneurial activity in modern economic conditions requires a theoretical and methodological analysis of transaction costs, with the justification of the directions of increasing the efficiency of institutions functioning.

Effect of transaction costs on the efficiency of entrepreneurship is accompanied by an increase in interdependence of market actors and requires an analysis of their joint actions. The role of transaction costs in the functioning of telecommunications operators as an institutional indicator is characterized by both the opportunism of agents in the system of joint interactions and the shortcomings of institutional regulation in the transactional sector of the economy [18]: the banking sector, telecommunications, etc. The complexity of the analysis of transaction costs is accompanied by increased integration processes in the market, including telecommunication services, due to the existence of an entire system of interests, which are expressed by business entrepreneurs, the state - the power structures and the population - with the help of civil society institutions. However, the regulatory impact on the integration process is, to a lesser extent, carried out by civil society and business institutes, on the basis of the appropriate creation of voluntary social associations and associations of economic cooperation [19-20]. The direct involvement of state bodies in the entrepreneurial environment is associated with the ability to compensate for the limited effectiveness of market mechanisms, during their formation, the formation of institutes that arise as a result of consolidation of positive practices and their subsequent legislative formulation.

The importance of the state as a regulator of economic relations comes from its very purpose in preserving the unity of the legal environment, institutional and entrepreneurial structures, and as a regulator of integration processes - providing for strengthening the competitive advantages of the sectors of the national economy and its subjects.

The mechanism of supporting effective economic activity and balancing the market space is a system of law regulating property relations and interaction of business entities, but in the case of ambiguity of its regulatory measures, it leads to the manifestation of signs of monopolization of the industry on the one hand, and on the other - the aspirations of state structures regarding ownership the right to exercise power and influence on the business sector, which in aggregate restrain the transformation of the system of institutional security of the economy.

In the general case in the economy, integration is a process of mutual adaptation, expansion of economic and industrial cooperation, the form of internationalization of economic activity, and manifests itself in creating favorable conditions for its implementation, expansion and deepening industrial and technological ties, the joint use of resources, the pooling of capital etc. At each level (micro-, macro-) elements of the integration process have a relative self-motion and with development they come into contact and interaction, which, at some point of time, under the impact of certain factors and conditions, generates internal and external contradictions between them that bear not only destructive, but also creative force that reproduces this contradiction [21]. The increase in the intensity and frequency of transactions of enterprises contributes to the strengthening of integration relations, but in the face of increasing uncertainty of the external environment and the specificity of resources, it requires a change in the institutional structure. In the research of P. Klein [14], the institutional system serves as a basis for building partner economic relations, but in the case of non formal consolidation (internal conventions), or non effectiveness of the procedure for verifying compliance with norms, and maintaining normative prescriptions, such interactions and forms of contracting collapse, lacking stable institutional mechanisms. The basic directions of forming a homogeneous institutional environment that affects the forms of integration transactions are clearly expressed by the state authorities regarding:

- consolidation of the private property institution (contract law, antitrust law) to reduce the manifestations of opportunistic behavior as business entities, as well as state authorities and local self-government;
- improvement of the contractual relations in the direction of formation of integrated structures with the interaction of science and production;
- use of alternative measures to increase financing capital investments and developping new forms of collective investment;
- development and improvement of the business self-regulation system.

Analysis of the efficiency of telecommunications operators showed that transaction costs arise from the interaction and the conclusion of an agreement between market players that is due to organizational, economic, technical and institutional (formal and informal) conditions of its functioning [15]. The informality of contracts is due to their incompleteness because of the impossibility of identifying possible opportunistic situations or non-specific circumstances, as well as significant costs of control over the fulfillment of obligations by the other party. According to the typization of transaction costs by A. Williamson [30], the main element is the moment of contracting. In addition, under conditions of insufficiently effective institutional structure of the telecommunications sphere, the action of transaction costs are increasing, which is the result of relations not only between the market participants, but also interaction with state structures. Therefore, we select the transaction costs of entrepreneurship as sectors of the economy, which concern both economic entities (private) and the state (public) [16-17].

According to the research by D. North [24], the "model of the state", which is based on the Institute of property rights, transaction costs, etc., appears in the form of an institutional agreement. Since the subject of the market, entering into relations with the state authorities, on the basis of certain formal and informal terms of the transaction, carries out transaction costs, we will consider them within the public sector within the typology, namely: search costs, monitoring costs, transaction costs, costs of execution contract terms, third party protection costs.

The increase of the transaction costs level shows an increase in the uncertainty and asymmetry of information, the need for mechanisms for regulating transaction costs, taking into account domestic specifics of certain kinds of entrepreneurial activity. There is still no comprehensive methodology for assessing transaction costs of enterprises, due to the complexity of calculating their implicit components, expressed in the form of growth of excessive costs, to great extent opportunism, and others.

The analysis of transaction costs at enterprises showed a significant amount of their total operating costs, which are associated with the interaction of business and the state, characterizing the ineffectiveness of the institutional structure and the availability of administrative restrictions, on the one hand, increases the marginal costs, and on the other - increasing the competitiveness of the industry is complicated , including due to institutional barriers and the growth of additional costs of economic agents related to obligatory contributions - costs of access to the market (state registration, licensing of activities and control over the quality of telecommunication services), as well as with illegal payments (costs for lobbying interests, costs of deviation from fines and regulations on the basis of illegal conflict resolution).

One of the methods of regulating transaction costs is the creation of effective legal protection of the property institute due to the prevalence of informal relations in economic activity.

Therefore, it is necessary to structure the institutional space with a specification of the functions of the relevant institutions that regulate transaction costs, for example, the institution of private and public partnership [3, 5].

The implementation of the processes of economic modernization in most of the sectoral markets requires an effective institutional mechanism for regulating transactions of entrepreneurial structures and a developed institutional environment that will contribute to the formation and achievement of competitive advantages, since it reduces significantly transaction costs and improves the efficiency of economic activity. In turn, the formation of well-organized schemes of contractual relations, institutional forms of economic ties and relations will contribute to improving the quality of management in the operator's activity.

The effectiveness of the activities of modern economic agents is determined not so much by the chosen long-term market strategy, but more and more as an appropriate mechanism, as interaction with other market participants, as well as institutional regulation of inter-firm integration of assets of relations and organizational and economic forms of entrepreneurial structures [15]. One of the factors of transaction costs was the desire to adapt in the dynamic market environment of telecommunication operators to minimize opportunism, but also the uncertainty of the institutional environment, in which decisions are made on the use of resources.

The basic directions of forming a homogeneous institutional environment affecting the forms of integration transactions are clearly expressed by the state authorities regarding: the development of mechanisms for the protection of private property to reduce the manifestations of opportunistic behaviour of both business entities and authorities, and the improvement of contractual relations in the direction of the formation of integrated structures with the interaction of science and production; the use of alternative measures for the development of new forms of collective investment in order to increase economic security [3].

Thus, there is an allocation of the institutional mechanism as a special sphere of interaction and solution of the emerging contradictions in the effective implementation of the goals and objectives of the integrated objects, creating conditions for their stable work [11]. In modern conditions, in the markets of transition economics, the increase in the efficiency of functioning of integrated structures can be achieved by state regulation, the main directions of which should be: the formation of joint unions and the expansion of production cooperation within the inter-sectoral interaction of economic actors, the formation of sustainable schemes of transactions on the basis of contractual interdependence, which will contribute greatly to the modernization of the institutional environment.

3. Institutional means of state policy for the development of entrepreneurship to ensure economic security

In a context of low gross domestic product (GDP) growth and a slow transition to technologies of 5 and 6 technological mode, the threat of economic security is increasing for the countries with transition economies. Therefore, the current economic situation actualizes the problem for the necessity to substantiate the institutional means of the state policy development of entrepreneurship in order to ensure economic security, because the low level of competition development based on them and the transition to the information technology model of the world economy with the interpenetration of transnational companies (TNCs), which, due to their financial independence, become less manageable by state institutions.

According to the data of 2018, the largest multinational companies are companies providing services (Apple, Amazon, etc.).

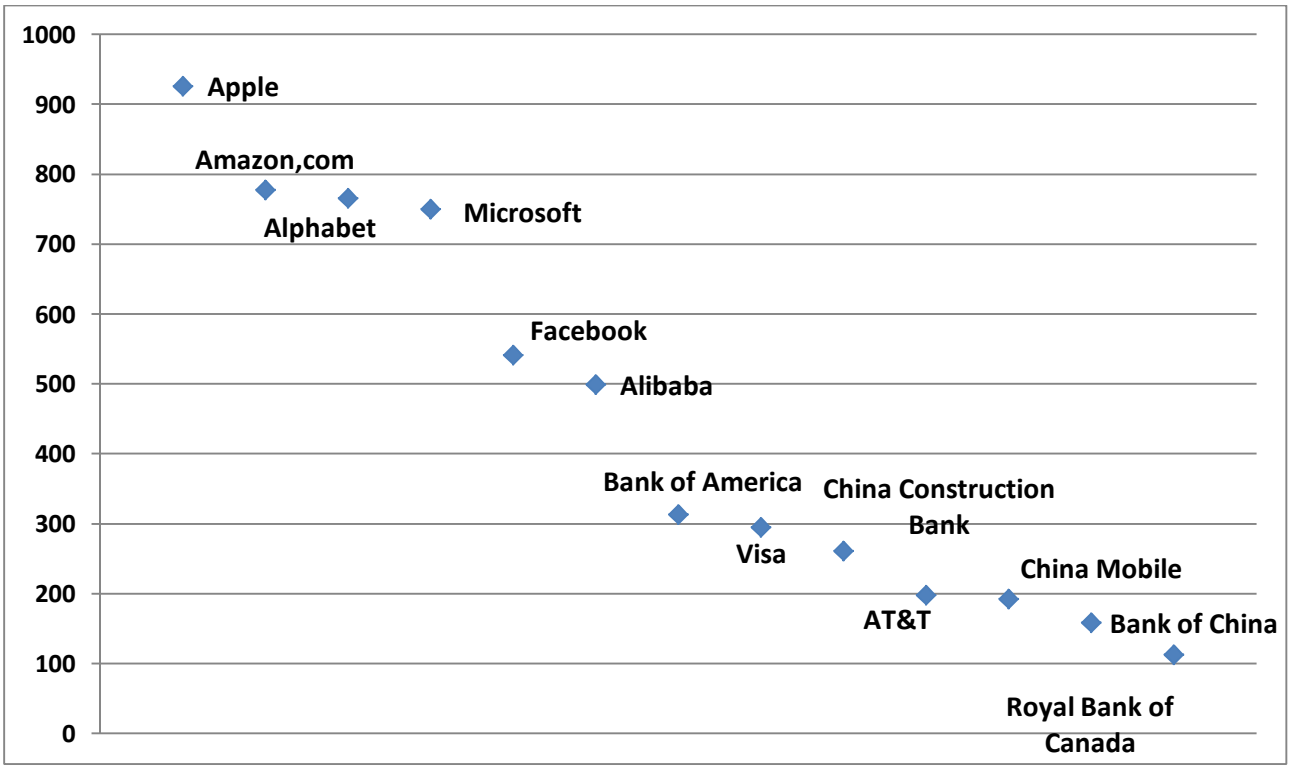

Fig. 1. The largest multinational capitalization companies in 2018
(in billion U.S. dollars)

Source: https://www.statista.com/statistics/263264.

The emerging demand to substantiate the tools for eliminating the threats of economic security at the markets will determine its place in the multi-level structure of the country's economic security and form on this basis the adaptive state policy in the field of economic security.

The question of ensuring the country's economic security in many scientific works of modern economists is mostly considered, from the classical positions of the definition of national security. In turn, the theoretical means of the economic security essence, its components (investment, production, foreign economic, financial, etc.), the corresponding threats and the interconnection of the institutional system with economic security, demands to justify the conditions for ensuring economic security that meets the modern requirements of socio- economic and political situation in the country.

The fundamental basis and one of the parts of state (national) security is economic security, the main threats of which are: monopolization of the strategic sectors of national economy (which include service markets) by foreign capital; deformed state regulation and institutional dysfunction (ineffective standards or institutional traps), dependence of national economy on external markets, etc. Under such conditions, the state of national security depends not only on the relevant economic criteria and their growth (GDP, protected budget items) and minimization (reduction of deficit to GDP and state debt to GDP), but also on institutional means. The realization of threats to national interests at the service market is a catalyst for the realization of national security threats, which may result in the state administration disruption and destabilizing influence on the functioning of national institutions [28].

The policy of ensuring economic security at the service market we define as a system of organizational, economic and legal measures of influence on the prevention of economic threats and means of protecting national economic interests and maintenance of socio-economic and technical and technological parameters within the standard values, which allow the service market to retain the ability to satisfy society's needs for the long-term period, to generate innovative movements and to realize the country's competitive advantages. At the same time, the basis of economic security is a separate entity with an effort to ensure its financial and economic stability and competitiveness and development of the market of telecommunication services with the fulfillment of its socio-economic obligations. In the general case, under the economic security of entities in the service market, we understand the condition of competitive environment at the market (a significant market advantage), as well as the ability of the institutional system (through the decision of state authorities) to promote the realization of mechanisms for the elimination and counteraction of possible threats (economic, information, technological) at the markets of telecommunication services (for example, disproportions of regional infrastructure development and investments in corresponding technologies) [15].

Increasing the risks of national security threats is primarily connected with the institutional system of economic relations between its entities, which are realized within a certain economic and legal order, which is formed and reproduced with their direct participation and based on the economic interests of all entities. This is determined by the level of socio-economic and political development of the country. As a result, the balance of economic policy is getting special relevance for the maintenance of national economic interests.

The management of economic security of entities at the service markets involves analyzing not only the threshold values of selected indicators, but also a comprehensive assessment of threats and the condition of development of economic processes. In the period of 2015-2018, there was an increase in practically all indicators characterizing the functioning of the economy. The global gross domestic product (GDP) is 74.58 trillion US dollars, where developed industrialized countries account about 50%.

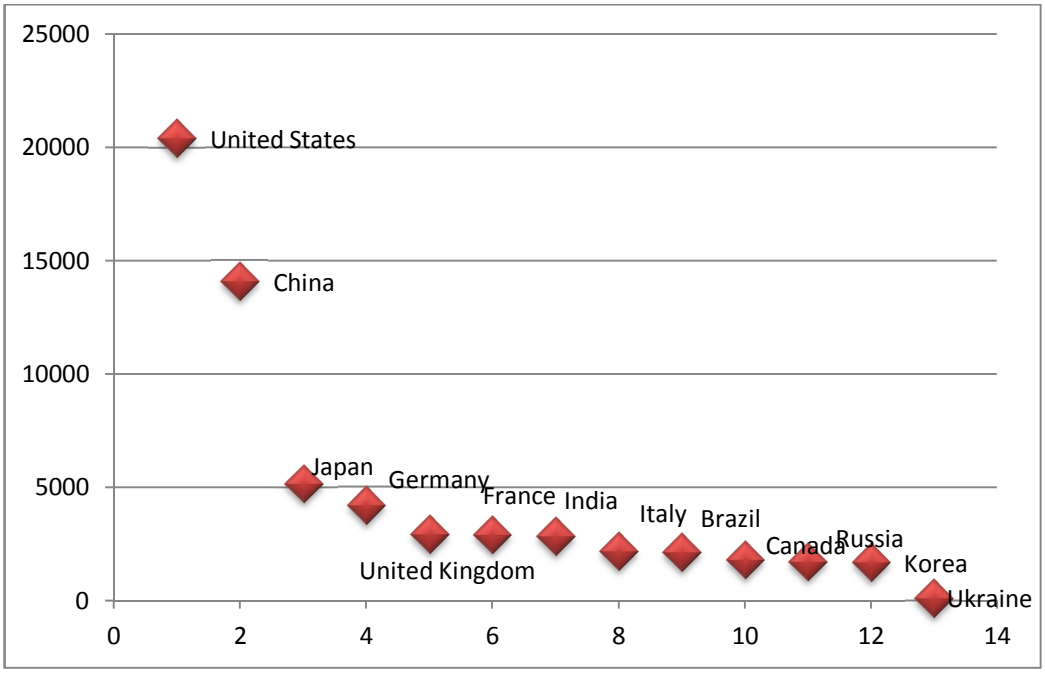

Fig. 2. Gross domestic product (GDP) ranking by country 2018 (in billion U.S. dollars)

Source: http://statisticstimes.com/economy.

In turn, indicators of capital investments for the development of service markets are increasing.

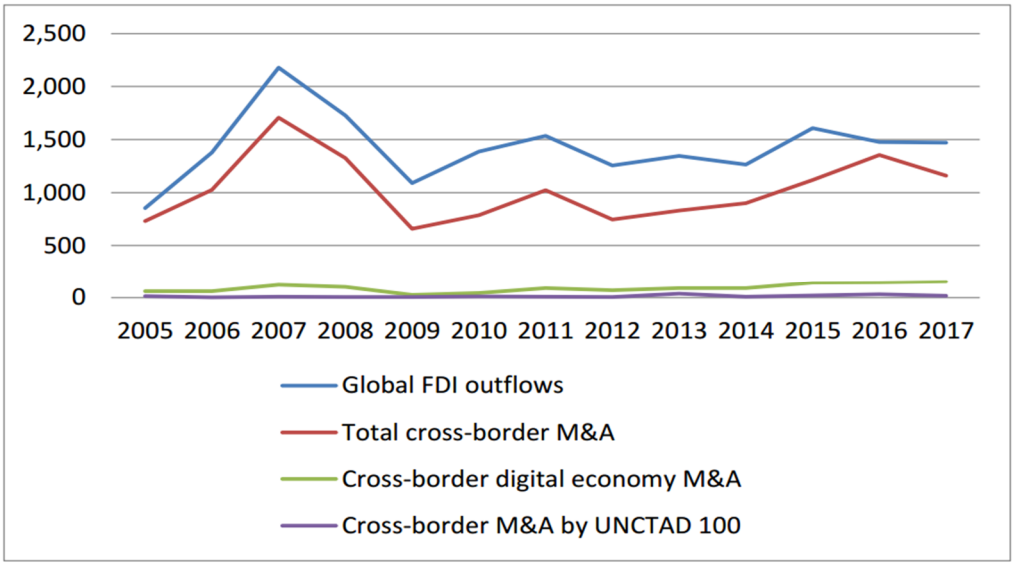

Fig. 3. Global FDI and M&A flows, 2005-2017 USD billions

Source: OECD FDI database, Dealogic M&A Analytics database, UNCTAD (2017)

The influence of TNCs as a hyper-state institution on the state policy in the field of economic security involves such institutional transformations, which should be directed for the formation of institutional order that would force economic agents to act not only for own high profits, but also for the interests of the whole society. In turn, the influence of institutions on the functioning of the system of economic security of telecommunication markets is characterized by the dependence on all components of the institutional content such as market and state, as well as public, whose activities are closely interacted. In this case, particularly market economy institutions are a compulsory component of stable relations between business entities that can simultaneously act as a means of ensuring of economic security, as well as a source of threat through the imbalance of compliance with formal rules and informal standards of economic behavior [28].

The capital of transnational corporations and the usage of internalization of the domestic market (transfer prices) reduces the possibilities for state control over their activities and the independence of TNCs from the state economic policy, which facilitates the possibility to create the last trade and other barriers or restrict competition at the relevant market [28]. In such conditions, the leveling of the negative consequences of the transnational integration process, which is accompanied by certain financial and institutional risks for the economic security of the country, causes the transformation of the state regulation system. Therefore, along with the traditional functions of legislative regulation, social development and national defense, the question arises how to ensure economic security at strategic markets, including telecommunications, on the basis of the optimal balance of private and state ownership, which influences the socio-economic efficiency of public production. Minimization of state ownership may reduce the possibility of smoothing cyclical changes of the market situation and stabilizing the dynamics of economic growth. The low proportion of the state sector in the economy may be followed by the restriction of the state role as the owner of national resources and the ability for effective usage of traditional instruments of macroeconomic regulation in the creation of conditions for the accumulation and realization of national scientific and technical potential, and, on the other hand, to weaken control of the state over interstate translocation of factors of TNCs production, limiting the ability to regulate the national economy completely.

Since the state property is a means of ensuring economic security and an effective regulator that stabilizes the economy and its development under the conditions of transnationalization, the change of state influence on TNCs at the service markets requires improvement of their management system and regulation of their activity. However, it should be taken into account that, in comparison with property, competition is the strongest factor of influence on enterprises. The determining threats for the economic security of the national markets of telecommunication services on the part of non-residents are: monopolization as a result of excessive openness of the economy; loss of control over markets with increasing dependence on non-resident entities; displacement of less competitive national enterprises due to price imbalances, etc.

The effectiveness of state regulation of economic security is characterized by the correspondence between institutional possibilities and state actions, on the one hand, and its economic potential (export, innovation, investment, etc.) - on the other, which involves taking into account the emerging transaction costs in the public sector and business.

To achieve this, it is necessary to strive for maximum economic security accounting institutional factors for ensuring economic security at the service market. In addition, it is important to identify possible risks and sources of their occurrence to ensure economic security of entities at the service market. In our opinion, the main means of economic policy to ensure the economic security of the service markets of countries with emerging economies are the following: administrative means, which include: an order for entities to make decisions that reply the objectives of economic policy; organizational and institutional means, which include measures: realization of a financial mechanism that aligns the economic cycle based on increasing of requirements for the capital of financial institutions; creation and support of state-owned objects; formation of institutions of entrepreneurial community and protection of property for adapted regulation in the process of entering the new spheres of market entities activity; an analysis of the degree of internationalization of markets in anti-monopoly merger assessment, etc [19].

It is on the basis of the transformation of the system of state regulation, which should be directed on the strengthening of the institutions protecting the property and responsibility of market entities for the infringement, as well as reforming the institute of entrepreneurship as a basic element of economic security, there is a need for the formation of a system of formal and informal restrictions that are supported by the state and market entities taking into account the interests of all parties. Such measures include the formation of public-private partnerships on the basis of incomplete contracts, but with the specification of ownership rights of all entities. In modern conditions, the development of the mechanism of partnership between the state and the business structures creates the formation of effective market institutions, which must guarantee:

- reduction of transaction costs, formation of harmonization-parity mechanism of pricing, etc.;
- improvement of organizational and economic interaction by means of complex informatization and connection, advantages implementation of a cluster combination of resources and opportunities, etc.;
- further reformation within the limits of laws, standards and concepts, preventing the reduction of economic security in the sphere of informatization;
- stimulating effective investment in the projects of economic sectors and national scale.

To ensure economic security at the market, it is necessary: to ensure access to telecommunications markets and to make state supervision, to control the quality of services, convergence of services and networks, to increase the efficiency of tariff policy, to implement international regulatory practices regarding the independence and subordination of national regulator authorities within the regulatory structure of EU [3; 20].

Conclusion.

Creation of a modern effective institutional system that provides economic security involves building a corresponding set of institutions and mechanisms (economic, controlling) for its provision on the basis of factors of economic security and appropriate means (administrative, organizational and institutional) of economic policy of the country.

The strategic task of the formation of a state policy for the development of entrepreneurship in order to ensure economic security under the conditions of transnational integration at the service markets involves the creation of an adaptive institutional model for ensuring economic independence and observation of national interests. The main directions of economic policy for ensuring economic security can be the following: formation of institutions of entrepreneurial community and protection of property for adapted regulation in the process of entering the new spheres of market entities activity; an analysis of the degree of internationalization of markets in anti-monopoly merger assessment (mergence); carrying out further reformation within the limits of laws, standards and concepts, preventing the reduction of economic security of the transport sector and the informatization sphere, etc.; stimulating effective investment in the projects of economic sectors and national scale.

In the context of growing threats for national security, as well as by means of transnational integration, it is obvious that the problems of providing economic security require the further development of a state policy to ensure economic security at the service markets. The basic directions for the formation of a homogeneous institutional environment which influences the forms of integration transactions are clearly expressed by the state authorities' actions regarding: the development of mechanisms for protection of private property to reduce the manifestations of opportunistic behavior; improvement of relations in the direction of formation of integrated structures with the interaction of science and production. Therefore, it takes place the allocation of the institutional mechanism as a special sphere of interaction and solution of emerging contradictions in the effective realization of the goals and objectives of the integrated objects, creating conditions for their stable work. Under the modern conditions, at the markets of the countries with emerging economy, the increase in the efficiency of the functioning of integrated structures can be achieved by state regulation, the main directions of which should be: the formation of joint ventures and the expansion of production cooperation within the inter-sectoral interaction of economic entities, the formation of stable schemes of transactions on the basis of contractual interdependence, which will greatly contribute to the modernization of the institutional environment.

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USE OF ANALYTICAL METHODS FOR PROTECTION OF ECONOMIC RIGHTS, FREEDOMS AND INTERESTS OF PERSONS UNDER INVESTIGATION OF CRIMINAL LEGAL OFFENSES

Abstract. *This section covers the use of analytical methods to protect economic rights, freedoms and interests of individuals in the investigation of criminal offenses. The position on the place of information analysis in counteracting crime is substantiated. The general directions of analytical activity of law enforcement bodies are indicated. Graphically, the place of system analysis in the structure of analytics and related branches of knowledge is depicted. The experience of the European Union and the United States regarding the use of criminal analysis capabilities in combating economic crime is presented. The directions of use of elements of criminal analysis (specialized software) during investigation of economic criminal offenses are indicated.*

JEL Classifacation: K14, **K42**

Introduction

The result of the political and socio-economic transformations that are taking place in the world today are the dynamic changes in the functioning of states and existing and emerging international unions. The current situation creates the circumstances for the emergence and development of new forms of crime and criminal phenomena.

Organized crime has gained unknown to this time, and the most dangerous and complex forms, has become one of the main causes of the global decline in the sense of security. The conditions that have emerged have identified new requirements in the application of modern technologies for detecting offenses and making decisions in the course of law enforcement activities. To overcome regional and transnational crime, law enforcement agencies from developed countries (France, USA, UK, Romania, Poland) criminal intelligence and risk management are used as key instruments for national security. Based on the assessments of institutions that criminal analysis is used in their daily activities, it can undeniably be asserted that it is an effective tool for combating crime. Given that the criminal analysis system is characterized by identical analytical procedures and principles and symbols of visual representation, it is a kind of international interpretation of criminal events by criminal analysts around the world. This indisputable argument also creates new opportunities for the development of effective cooperation and cooperation between national and international law enforcement agencies.

The essence of each analysis lies in the process of methodological identification of the links between any information, which leads to the formulation of the answer to the question: what, why? and what for? When it comes to criminal analysis, its essence is a clear statement of reasoning and proposals for further action aimed at apprehending offenders and detecting evidence of a crime. The system for analyzing information in the activities of law enforcement bodies is to establish and search for links between data on criminal activity and other data potentially associated with them for the purpose of their use in the development of tactical and strategic principles, including in the area of integrated border management, which is based on the analysis of information and aimed at cooperation, as well as finding solutions to the fight against organized crime, nationally and internationally. Established in the law enforcement agencies of the information analysis system, they have become adequate mechanisms for combating crime, an instrument for creating an integrated risk management system, providing information and analytical support, preparing management decisions and a means of preventing the response to existing threats in the area of national security.

1. General directions of analytical activity of law enforcement bodies for protection of economic rights, freedoms and interests of persons during investigation of criminal offenses

Analysis (from the Greek άναλυτικά - "the art of analysis," decomposed) are those parts of the philosophical systems in which the objects of philosophy are decomposed into constituent elements so that then it is possible, on the basis of them, to make unmistakable conclusions and applications. The process of cognition is a complex whole, from which no element can be removed, so that the whole process does not come into disarray. We get knowledge from different sources: art, religion, and philosophy can be alongside with science.

Undoubtedly, the character of thinking analyst and analyst as a system of knowledge should be dialectical. Naturally, the perception of reality by any person is carried out subjectively. However, the main thing is that a reasonable person should maximally strive for the objectivity and adequacy of reflection of reality, to develop their mental faculties, using for this all the richness of dialectical methodology.

The role of intelligence at all times and in all countries was extremely high. Intellect is the most valuable resource and product owned by a society that seeks to develop.

It is well-known that in modern conditions, the intellectual resource of the population as well as the demographic, territorial, raw material, technological parameters of a society is the most important condition for progressive development. Moreover, it can be affirmed that without the active involvement of this resource, other resources work only partially. The intellect has one unique property - self-reproduction. The more it is used, the more it becomes. And another unique property of intelligence - it multiplies the available material resources. The philosophical category "system" is extremely important for analytics. Like motion, space, time, the reflection of systemicity is a concept that reflects the general, inalienable properties of matter. The system captures the predominance of organization in the world over chaotic changes. The unauthorized change in one in any respect turns out to be orderly in another. Organisativity is inherent in matter in any of its spatio-temporal scales and finds its theoretical explanation and reflection in the category "system".

From the point of view of philosophy, the content of system analysis as the nucleus of analysts gives practitioners the opportunity to increase the efficiency of their work, the main idea of system analysis is the combination of formal and informal representations in models and methods that help gradually to formalize the ways of objective reflection and analysis of the problem situation, to reveal its essence. The place of system analysis in the structure of analytics and related ranches of knowledge is presented in Figure 1.

While conducting a system analysis, it is necessary, first of all, to reflect the situation with the help of the fullest possible definition of the system, and then, highlighting the most significant components that influence the decision-making, to formulate a working definition of the system, which can be specified, expand or narrowing, depending on the analysis process. Owning a method of system analysis largely determines the level of professionalism of the analyst. The concept of system analysis is by no means a concept associated exclusively with military systems or security systems. It is a means of finding solutions to resolve contradictions in any problem area. The objective characteristic, the identification and formulation of the problem involves its solution, which uses the entire analytical arsenal of information processing techniques. Accordingly, the necessary approaches to choosing a strategy that gives the best ratio of risk, efficiency and cost.

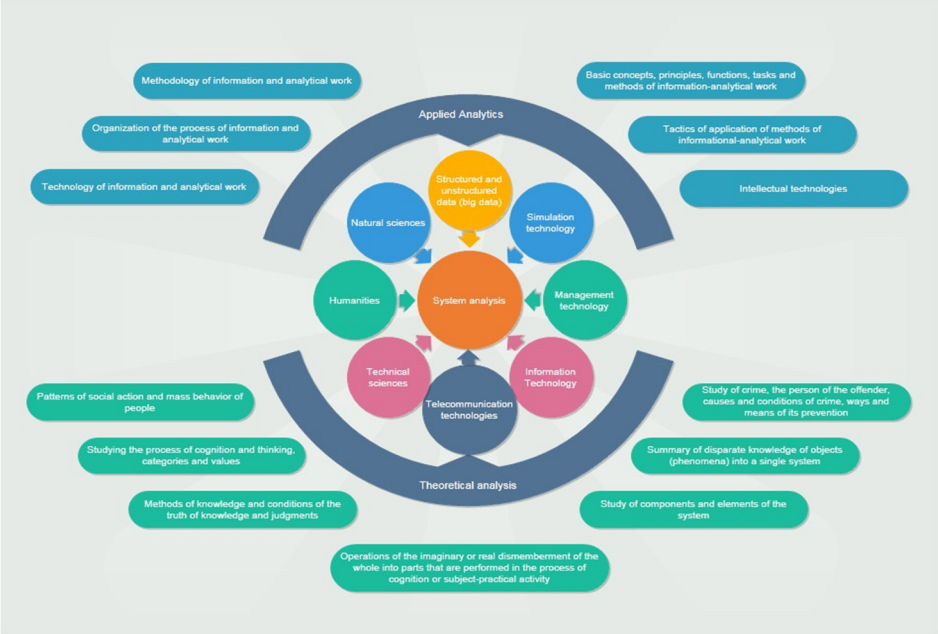

Fig.1. The place of system analysis in the structure of analytics and related branches of knowledge

The purpose of the system analysis by examining each element of the system in its own environment is to ensure that the system as a whole can fulfill its task at a minimal cost of resources. The main thing in the system analysis is how difficult it is to turn into a simple; in search of effective means of managing complex objects; as difficult-to-understand problem to optimize in a series of tasks, in principle have a solution, to show their structure and hierarchy, the sequence of actions. Thus, system analysis is a complex, multifactor approach to the consideration of objects of analysis, their representation as a system that has its elements, relationships, structure, functions. It is very important to understand that system analysis is not a formal method of analysis based on frozen dogma, but rather a conceptual approach that requires the creative use of the maximum range of disciplines and research methods for systematic consideration of any one problem.

Within the framework of the given powers, law enforcement agencies obtain a sufficient array of information on criminal activity, including organized crime. In connection with the above, the overriding task is the use of tools that would enable the processing of a large amount of available data. One such instrument is a criminal analysis [1, p. 9].

In the countries of the European Union, the USA and other developed countries, the use of criminal analysis capabilities is mandatory for all law enforcement agencies. Its content, rules and procedures are clearly defined and regulated in a legal sense. This, in particular, concerns the conduct of operational search activities, pre-trial investigations and criminal proceedings in court [2, p. 2].

Criminal analysis is a specific type of information-analytical activity that is to identify and, as accurately as possible, determine the internal relationships between information (information, data) relating to a crime and any other data obtained from different sources, their use in the interests of conducting investigative and investigative activities, their analytical support [3, p. 82]. In the course of criminal analysis, targeted search, detection, fixation, deletion, organizing, analysis and evaluation of criminal information, its representation (visualization), transmission and realization are provided.

In the process of criminal analysis the following main types - operational (operational), tactical and strategic are distinguished [1, p. 9]. Operational (analytical) analytics is aimed at a short-term law enforcement action or an active case that serves to achieve within a short time the intended purpose in the form of, for example, arresting and arresting a suspect, imposing an arrest on a crime instrument or extracting it. The operational (operational) analysis is directed directly at the analytical support of operative and investigative activities, in particular as part of the work on operational searches, as well as analytical support for pre-trial investigation of criminal offenses, the conduct of which falls within the competence of the bodies of the National Police of Ukraine. In addition, the results of operational criminal analysis are passed on to other law enforcement authorities, along with the data (information) of the detected offenses. Operational (criminal) analysis consists of planning, collecting, collecting, comparing and evaluating information for its analysis and reporting as well as further setting of tasks. The purpose of collecting and analyzing information is to create and test hypotheses and conclusions about past, present and future wrongful acts, including the description of the structure and scope of criminal groups and the transfer of the leading components of clear information concerning operational searches and investigative search actions. Operational (criminal) analysis is carried out in three forms:

1. The analysis accompanying the operational search and investigative activities (the available information related to the proceedings is streamlined, the new information is correlated and evaluated accordingly, hypotheses that are supported by evidence or conclusions are refuted in the current order).

2. Analysis that is conducted to support investigative and investigative activities (the analyst takes on analytical tasks, presents the results of the analysis, searches for information from his own databases).

3. Analysis that initiates operational search and investigative activities.

All forms of analysis are interlinked, if the analysis is accompanied by operational search and investigative activities, at the same time it supports it and gives grounds for conducting investigative (search) actions and operational-search activities. In the course of the analytical process, information about the offender, the course of the event, the means of committing a crime, the time and place of his commission, etc. are evaluated. The circulation of this information occurs between operational staff and investigators, which consists not only in the provision or receipt of information, but also in the active acquisition of information.

The source of information may be the database, materials of pre-trial investigations, including protocols for interrogations of witnesses and suspects, materials of operative and prosecution cases, reports of other bodies, media reports, etc. The practical use of criminal analysis by the operative-search units of the National Police of Ukraine confirmed its high efficiency in multi-episode proceedings covering a large area, including a significant number of events and subjects of a criminal group with a complex structural structure. In these cases, traditional methods of tracking and asserting facts were not effective enough.

Operational criminal analysis can cover the following areas: crime, criminals and methods of doing business. Crime analysis is to reconstruct its course by establishing a sequence of individual events; presence of signs of repetition of events; the mutual disconnection of information originating from various sources. The analysis of the crime is carried out with the purpose of determining recommendations for further direction of conducting operational-search activities and investigative (search) actions.

In the process of crime analysis, various analytical technologies are used, including action schemes, event schemes or activity schemes. In addition to analyzing a crime, a comparative analysis of crimes can be performed, which is to compare information on criminal proceedings against similar crimes, in order to determine whether some of them could be committed or organized by the same suspect. In conducting comparative analysis of crimes, analytical technologies such as systematic search in databases, review of reports and reports, comparison of similarity of the obtained data and determination of the likelihood of this similarity are used. An analysis whose subject matter is a criminal may relate to a criminal group or a specific offender's profile. Analysis of the criminal group consists in organizing information on the members of the criminal group in order to get acquainted with the structure of the group and the establishment of the roles of its individual members. In conducting criminal group analysis, analytical technologies such as interconnection schemes, action plans, event schemes, activity diagrams, telephone call analysis, financial transaction analysis and financial profiling of individuals involved in criminal proceedings are used. The analysis of the psychological profile of the typical perpetrator makes it possible to determine on the basis of the description of the crime, the character of the person who committed it, the type of person-perpetrator, the possible area of his residence, the work performed.

Strategic analytics deals with longer-term problems and challenges such as identifying key criminal individuals or criminal syndicates; forecasts of the growth of criminal activity and the establishment of priorities in law enforcement activities.

Strategic Criminal Analysis focuses on data processing for management processes and decision making. Information, depending on the recipient, has a planning, evaluation, guidance or controlling character. Its subject is the long-term goals, definition of priorities and strategies for combating crime on the basis of in-depth research and forecasting its development.

The products of strategic analysis, as a rule, are: reports on the situation; analyzes of phenomena; thematic analyzes; criminological regional analyzes; structural analysis of threats; Concepts / proposals for improving the fight against crime. During the analysis of crime an analysis of its essence, volume, dynamics and development of crime or its various types (categories of crimes) in separate territories and for a certain period of time is carried out. The results of this analysis can be presented in the following analytical forms: charts, graphs, tables, diagrams, maps, photos, geolocation, statistical information, written reports, etc. The aggregate of the evidence collected as a result of these acts creates, at the initial stage of the pre-trial investigation of criminal proceedings, sufficient prerequisites for the information provision of the further course of the investigation. However, this becomes possible only when these actions are carried out taking into account all the peculiarities of the search-and-cognitive activity of the investigator and the peculiarity of the information display of the crime event.

Consequently, the main objective of criminal analysis is to strengthen mechanisms for the prevention, detection, documentation and investigation of criminal offenses, as well as the establishment of mechanisms for monitoring the crime situation, the exchange of information at the state, regional and international levels regarding trends and risks in this area.

2. Use of elements of criminal analysis during the investigation of economic criminal offenses

Currently, in most countries of the world, elements of criminal analysis are used to process large-scale information arrays, as well as visualize the circumstances of events, connections between individuals, events and individuals during the investigation of economic criminal offenses, which are often latent, well-organized and subject to actors management of a large amount of damage. In addition, elements of criminal analysis help to make the right procedural and organizational decisions, and prevent a number of possible negative consequences during the investigation of economic criminal offenses. Thus, criminal analysis data that is timely (that is, the information is provided on time) provide grounds for taking measures (this definition implies that the information is sufficiently detailed and reliable for carrying out the appropriate measures) necessary for the effective conduct of investigators (investigators) and other procedural actions in the investigation of serious and especially grave economic crimes and other illegal activities of organized crime, especially if it has a transnational character.

A characteristic feature of modern economic crimes is the availability of a large amount of information that was obtained by operational or investigative means, which should be generalized, processed, analyzed, and assessed and further used effectively in investigations of the specified crime category. For this purpose, it is necessary to actively use analytical methods recognized in many developed countries of the world.

The analysis is a methodology that seeks to establish the presence of a link or link between two or more elements of forensically meaningful information. The analysis allows you to remove relevant information and use it to reduce the degree of uncertainty and predict what can happen with a certain probability, to make logical, rational and substantiated conclusions in criminal proceedings.

Significant role in the implementation of criminal analysis of the leading countries of the world is its information support. At present, powerful information arrays are created and integrated in different areas of activity, which allows for effective investigation of criminal offenses. One of the leaders in the software for criminal analysis is IBM. Thus, the use of the IBM I2 Analyst's Notebook software facilitates the accumulation, processing, research and use of available data on a criminal offense committed, and thus positively affects the effectiveness of the investigation of criminal proceedings. The IBM I2 Analyst's Notebook is a visual analytical environment that maximizes the use of enormous amounts of information accumulated by public services and enterprises. With an intuitive context-based interface, analysts (operational staff, investigators and other law enforcement officers) can quickly collate, analyze, and visualize data from different sources, reducing the time to find important information in complex data. The IBM I2 software is a direct-purpose computer software designed to summarize, analyze, proxy, and visualize real-time information exchange. This software is a set of interoperable programs that perform the relevant specific functions at all stages of the crime investigation. The specified software product is an advanced method of investigation of crimes and analysis of operational information.

The IBM I2 Analyst's Notebook helps law enforcement agencies to solve the following tasks: to systematize structured and unstructured data from many sources into a single coherent presentation; to identify key persons (persons involved in criminal proceedings), events, relationships and regularities between them, which can not always be detected by other means; to improve understanding of the structure, hierarchy and methods of action of criminal groups specializing in committing economic crimes; to facilitate the exchange of complex data, which allows to receive timely and effective operational and tactical decisions in the course of criminal proceedings; the ability to benefit from rapid implementation, which ensures rapid growth of productivity, thanks to reliable solutions for visual analytics; import various types of data, including phone call records, financial transactions, IP address logs and forensic research on mobile phones; Convert data in a clear and understandable way, which helps to analyze complex scenarios; effectively analyze a wide range of data types using a flexible data modeling and visualization environment; Detailed analysis and deep understanding of the data through various analytical representations, including associative, spatial, temporal and statistical representations; operative definition of key persons, relationships between them and their connection with key events using the functions of analysis of the main connections; understanding of the main stages of the development of events or regularities in criminal activity at the expense of powerful tools for conducting time analysis; to identify possible mediators between, at

first sight, unrelated entities in the network; the possibility to study data in detail in order to identify unobvious connections, patterns and trends in complex data; geospatial analytics capabilities; use integrated analysis of social networks to identify key individuals and relationships within criminal organizations; to assist in the decision making process and optimize the use of resources for rapid response to network penetration, surveillance or violation of their work; creation of intuitive diagrams, in which the supporting data for briefings and presentations are fixed and systematized; integration of information and visual representation of data into analytical reports; the ability to share charts with people who do not use I2 Analyst's Notebook [4-8].

These features are inherent in many similar software products. Therefore, their use will only positively affect the completeness and speed of the investigation of economic crime. The use of analytical programs in data analysis provides a number of positive factors that help to increase the efficiency and effectiveness of the actors of evidence.

Therefore, the use of the above-mentioned methods and software products in the investigation of crimes related to unlawful benefits, which will provide the relevant investigators and operational units with a number of significant advantages, seems to be justified: 1) the construction of informative schemes of criminal and family ties of individuals and suspects; 2) construction of schemes of criminal ties in the scale of the rayon, city, region and the whole state; 3) reliable identification of new entrants subject to operational development; 4) determining the distribution of roles among members of criminal groups; 5) the establishment of new members of criminal groups; 6) effective documentation and investigation of multi-episode crimes; 7) reflection of the directions of traffic flows of money caught in a criminal way, and their further legalization; 8) forecasting of possible conflicts of interest among civil servants; 9) coherence of actions of participants of the investigation and operational group; 10) presentation of the results of law enforcement activities [9; 10, p. 176].

For example, a solution to the problem of determining the distribution of roles among members of criminal groups that commit economic crimes can be considered through phone analysis and computer analysis. With the help of this analysis, evidence can be obtained, which is concealed by criminals, is carefully guarded against leakage and distribution.

This information can be used to successfully plan further conduct of investigative (investigative) actions, as well as to effectively organize the investigation of criminal proceedings in general. Criminal analysis of telephones consists of a vowel and anonymous conduction with the use of appropriate technical means for observing, selecting and fixing the content of information transmitted by a person, as well as receiving, converting and fixing various types of signals transmitted by communication channels (signs, signals, written text , images, sounds, messages of any kind) [11]. By analyzing a person's telephone, which is of interest to law enforcement agencies, it is possible to monitor its telephone conversations and other signals such as: SMS, MMS, fax, modem communications, which are transmitted through the telephone communication channel being controlled [12, p.p. 29-30].

In the future, information from phones and computers is analyzed, and the findings of criminal analysts about determining the distribution of roles between members of criminal groups are visualized to facilitate perception. Visualization of the circumstances of events, connections between individuals, events and individuals is an important part of the use of elements of criminal analysis during the investigation of economic criminal offenses. This is confirmed by the fact that law enforcement agencies in the United States and a number of European countries place considerable emphasis on such visualization, in particular when developing relationships between persons who are of operational interest or are involved in criminal proceedings. As practice shows, during the conduct of criminal intelligence, visualized information is much better perceived by law enforcement officers, which in turn increases the effectiveness of their activities [13, p. 83].

Processing large amounts of information is possible only with the use of intelligent technologies, such as IBM I2, which reduce the brain load of the investigator and help him when making a decision in the investigation of complex ephemeral economic crimes.

3. International experience in combating economic criminal offenses with the use of analytical methods

The analysis of democratic socio-political, economic, legal and organizational measures for the restructuring of society in Ukraine suggests that the state authorities seek to counteract the negative trends of social development, their intellectual and organizational potential, and change the situation for the better. First of all, it concerns the fight against economic crime. Determinants of the growth of crime and the criminalization of social relations are not only in themselves negative socio-economic factors of social development, but also the inability to counteract these factors of a balanced state economic, social and legal policy and to ensure the proper legal order of regulation of social relations. Therefore, for Ukraine, it is important to involve foreign experience in combating economic crime.

Economic crime is becoming an increasingly problematic, threatening phenomenon for Ukraine as an independent, independent and young sovereign state. Existing for a long time, imperfect economic relations are used by criminals to parasitize the body of a society, to provide significant material revenues at the expense of non-payment of taxes, corruption, fraud with financial resources, legalization by means of "money laundering" of money laundered, occupation of prohibited types of economic activity, direct encroachment on all forms of property and committing other crimes of economic orientation. Obviously, such acts should not be left without proper response from the state; they oblige their law enforcement agencies to fight uncompromisingly with them. The current state of state-building in Ukraine is closely linked with the development of foreign experience in public administration in the organization of law enforcement activities, including the fight against crime in the field of economic relations, because economic crime has grave consequences for any society.

By choosing the path to improving and developing the system of law enforcement, it is always useful to really evaluate your own experience and, at the same time, turn to the

developments in this field of scientists from other countries. A scientific study shows that foreign states are different socio-political entities with their own history, peculiarities of the state system, political system, culture and traditions. Therefore, consideration of foreign experience needs to be generalized, choosing from this experience the most significant elements, characteristics, trends that make up scientific and practical interest for Ukraine. The US experience in combating legalization (laundering) of criminal profits proves the following. In the United States, the legal definition of the legalization of criminal proceeds was expanded, and now the crime is recognized by the conduct of the operation itself with funds of doubtful origin, regardless of the fact of proving a predicate crime. Criminal liability for the legalization of criminal proceeds in the United States is established both at the federal level and in each individual state. A separate responsibility for the establishment and for the so-called "structuring" - the distribution of a large amount of money for small amounts in order to avoid checks by the government. Such activity is regarded as misleading in order to conceal suspicious transactions [14, p. 33]. Since the legalization of criminal proceeds consists in the implementation of any cash operations, countering the legalization is, first of all, in tracking cash flows and cashless funds. One of the most effective ways of tracking cash flow is monitoring payments.

Today, in the United States, the two most common forms of settlement work are using checks and credit cards. Both forms of settlements are through the system of the federal reserve and the central bank, which monitor the payments using checks and credit cards. The American strategy to combat money laundering can not be called a decent and rational. Despite legislative innovations, we can not say that the federal government has managed to prosecute all illegal transactions with money of dubious origin. In addition, the issue of interaction between law enforcement and controlling bodies is not resolved. So, in the American government's strategy to combat the legalization of criminal proceeds, 10-12 different federal agencies are responsible for different directions of its implementation, and the mechanism of their cooperation is not developed [15, p. 283].

Law enforcement officers increasingly have to not only perform functions to combat economic crime and stop the illegal activities, but also to eliminate the consequences of such offenses, to return funds, property and valuables from foreign countries, which is one of the most difficult tasks. The problem is compounded by the weakness of the financial control system in Ukraine and the CIS countries, in which it is virtually impossible to establish the origin of cash, large amounts are in circulation in cash. Currently, cooperation between law enforcement agencies of Ukraine is in the process of becoming. Few contacts have been maintained with the United Nations, the Organization for Security and Co-operation in Europe, the International Financial Action Task Force on Money Laundering, The Council of Europe (mainly this is a participation in projects on financing and organizational support of the activities of Ukrainian law-enforcement bodies, which is carried out in the form of conferences, seminars, trainings).

The most effective practical interaction is established with Interpol. Recognizing the high degree of harm caused by economic crimes to society and the world financial system, the Police Directorate of the General Secretariat of Interpol formed a Department for Combating Financial and Economic Crimes, which also includes the ROAS Working Group, which specializes in controlling income received as a result of criminal activity. The research of Flatwash Group is aimed at detecting suspicious financial transactions and money, property and property acquired in a criminal way, as well as in CIS countries [16]. In some states, financial intelligence units have been established that are integrated into the single Egmond network, which aims to intensify the exchange of information on economic crimes, and the creation of a unified international database of such crimes. The main focus is on crimes of money laundering. The modern system of combating economic crime as a result of its development has consolidated the basic rules and principles of interaction between the competent authorities of the world, has developed a unified methodology for requesting information, as well as the amount of information that can be provided. Thus, during operational and investigative measures and investigative actions related to the disclosure of crimes in the field of economy, the channels of Interpol, you can receive the following information: official names of commercial structures (firms, organizations); the date of registration of legal entities and business entities in state bodies; legal address, telephones and other telecommunication facilities; surnames and names of heads of such structures; main directions of activity of the enterprise; the size of the authorized capital; information about termination of activity; criminal records concerning the heads of enterprises. Along with the achievements of law enforcement agencies in combating crime, many problems remain, in particular, with regard to extradition (extradition) of persons who committed economic crimes, from one state to another. For example, almost all agreements concluded by Ukraine exclude crimes in the field of economic activity or financial violations. First of all, this is done to prevent abuse by governments of individual countries, who, in the guise of pursuit of economic crimes, pursue a person on a political, religious or military basis. Therefore, persons extracted for committing economic crimes may be counted on their fingers.

One of the methods for collecting operational information is the use of open source intelligence, namely, "OSINT" (open-source intelligence). Today, one can observe an increase in interest in OSINT not only by journalists, analysts of private companies and ordinary citizens, but also by intelligence analysts of special services, because OSINT has certain advantages over the collection, processing and analysis of restricted information, on the very fact that does not require special access to information, which means it saves the time of the user, does not require special skills, the cost of significant funds. Using "OSINT" in some cases prevents the commission of a criminal offense, since the expression "It is better to prevent crime than to punish" becomes more and more important. The United States uses OSINT information to a greater extent for planning combat operations, organizing and conducting military operations, and preventing terrorist acts [17; 18].

According to US intelligence analysts, the biggest problem with OSINT is currently unverified sources of information, provocative resources, insecure information. In order to obtain the most relevant and qualitative information, the user must process a lot of information from different sources and summarize it as required by the purpose and objectives of the study. In the United States, an extensive network of centers and points conducting OSINT intelligence has been formed and provides information to more than 7,000 intelligence data consumers. And this is nothing more than a result of coordinated actions of the legislative and executive authorities aimed at pursuing a focused policy in the field of ensuring national security. Similar structures exist at all levels [19]. Israel also uses "OSINT" primarily to analyze the military capabilities of the enemy. In the military intelligence structure there is a separate special unit for the analysis of open sources of information "Hatsaf", which collects information only for military purposes. In the UK, with the help of "OSINT," civilian journalists from the BBC Monitoring Service are collecting primary information, which goes into the secret services for further use in specific research areas. Considering the international experience of using OSINT, it may be noted that a large number of information sources are needed to obtain high-quality and up-to-date information. For correct and productive work of this method it is not enough to find information, it must be processed, analyzed, found confirmation of the investigated facts, events and phenomena, because much information is created just for misinformation. For today in the leading countries of the world "OSINT" is actively and successfully used by information and analytical units; data on the percentage of productivity of open source information confirm the need and relevance of US and European experience in solving operational, tactical and strategic tasks of law enforcement agencies. Since the difference between a newcomer looking for information on the Internet and a OSINT professional who is familiar with the search and analysis technique has some skills in this area, it is enormous: where the novice will see the photo, the number of reposts, groups and pages that the person signed , profile of a person in social networks - the professional will see the activity, the dates of publications, the background in the photographs, the possible reasons for subscribing to certain groups, highlight the circles of communication (build a scheme of connections of the person / persons), etc.

Conclusions.

Therefore, one can confidently assert that in order to increase the effectiveness of protecting the economic rights, freedoms and interests of individuals during the investigation of criminal offenses, it is considered necessary and expedient to use the whole arsenal of analytical methods. In order to achieve the maximum level of automation of work, qualitative processing and visualization (visibility) of relationships between individuals, events and individuals in the existing large masses of information in the investigation of multi-episode, complex, latent economic crimes committed by organized criminal groups (groups), it is recommended to use standard software criminal analysis, for example, such software systems as IBM I2 Analyst's Notebook, IBM I2 iBase8, and others.

The indicated analytical tools considerably increase the efficiency of investigating the investigated crimes, due to the possibility of drawing up charts (diagrams) of criminal ties (including telephone communication schemes with unlimited number of mobile phones and numbers), event matrices, financial flow diagrams, frequency charts of contacts. Today, all law enforcement agencies in developed countries have powerful automated tools for configuring, collecting, controlling, analyzing and displaying complex information and communications, as well as the nature of data. This approach is a requirement of the present for a complete counteraction to organized crime, which makes it possible to simplify the task of criminal proceedings for the protection of economic rights, freedoms and interests of a person, society, the state from criminal offenses, as well as to ensure a prompt, full and impartial investigation so that everyone, Whoever committed a criminal offense has been prosecuted as guilty.

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THE PROTECTION OF THE RIGHTS OF THE PARTICIPANTS OF THE LEGAL RELATIONSHIPS ARISING FROM THE CONTRACTS ON PROVIDING FINANCIAL SERVICES

Abstract. *In today's economic conditions the number of the signed contracts on providing financial services in various spheres significantly increased. As a rule, such contracts terminate with their appropriate execution. However, sometimes there are situations when the parties have to protect the rights. Investigating theoretical bases of the protection of the rights of the participants of the legal relationships arising in the sphere of providing financial services, the author gives definition of the concept "civil protection". Also it is offered to consider means of protection as independent category. At a research of separate features of protection of the rights of the participants of the specified legal relationship, the system of ways of protection of such rights is offered. Also investigating the special legislation and court practice, the author marks out features of protection of the rights of the participants of the legal relationships arising from separate types of contracts on providing financial services.*

JEL Classifacation: K12, K29, K36

Introduction.

In today's economic conditions the request for the bank credits, insurance services, providing bail, and other services are significantly increased. Noted circumstances brought to the fact that a significant amount of persons conclude contracts on providing financial services. The requirements enshrined in such contracts are carried out mostly by the subjects voluntarily. However, in practice often there are situations when the established rules can be violated. In such cases, the party which rights were violated has a right of defense. Unfortunately, for this time there was a situation on which the rights and legitimate interests of banks and other special subjects of providing financial services belong much above the rights and legitimate interests of persons which consume such services. There are various abuses of financial services provider's rights, more than that, persons who consume financial services can be properly uninformed concerning protection of the rights.

The efficiency of the participants' rights protection of the legal relationships arising from the contracts on providing financial services depends on a correct choice of a way of right protection. Incorrect choice of a way of the right protection often leads to refusal by authorized body in the satisfaction of statements of participants of such legal relationships or to refusal in the satisfaction of complaints. As a result, there is no renewal of the violated right or legitimate interest. At the same time, the purpose of legal regulation is unachieved. It induces participants of legal relationships arising from the contracts on providing financial services, to apply other, illegal actions directed to protection of the rights, for example, fictitious bankruptcy, tax avoidance and others.

Unfortunately, special provisions concerning protection of the rights of participants of the legal relationships arising from the contracts on providing financial services are not contained in the current legislation. Due to the above-mentioned circumstances, their list demands specification in the rules of law. The aim of the research is to define the theoretical bases and the general features of protection of the rights of participants of legal relationships arising from the contracts on providing financial services and also to clarification the peculiarities of protection of the rights of participants of legal relationships arising from separate types of the contracts on providing financial services.

The state of the topic research. The main theoretical bases on the topic research were formulated by the famous scientists of the pre-revolutionary, Soviet and modern periods, such as: M. M. Agarkov, S. S. Alekseyev, L. M. Baranova, T. V. Bodnar, V. I. Borisova, M. I. Braginsky, S.M. Bratus, V.V. Vitryansky, A. M. Gulyaev, O. V. Dzera, O. S. Ioffe, I. S. Kanzafarova, A.G. Karapetov, V. M. Koretsky, O. O. Krasavchikov, H. Kyotts, O. Lando, V. V. Luts, D. I. Meyer, E. O. Sukhanov, E. O. Kharitonov, K. Tsvaygert, Ya. M. Shevchenko, G. F. Shershenevich, etc.

1. The Theoretical Bases of Protection of the Rights of the Participants of the Legal Relationships arising from the Contracts on Providing Financial Services

For disclosure of contents and identification of the peculiarities of protection of the rights of the participants of the legal relationships arising from the contracts on providing financial services, first of all, it is necessary to investigate the basic theoretical provisions concerning protection of the noted rights of the participants of the legal relationships, and ways of protection in general provisions of the Civil code (further – the CC) of Ukraine.

In the Article 6 of the CC of Ukraine is noted that "protection of the civil rights is carried out in accordance with the established procedure by court, arbitration or the arbitration court" [6]. According to the Article 15 of the CC of Ukraine each person has a right of defense of the civil law in case of its violation, non-recognition or contest [6]. The definition of the concept "civil law protection" in the CC of Ukraine is not provided.

Despite of the fact that the research of the concept of the legal protection always took the important place in juridical science in general and in civil law science in particular, among views of scientists, concerning definition of this concept – there is no unified point of view.

All existing approaches in legal literature come down to the fact that legal protection is considered as: 1) the system of the legal norms directed to prevention of offenses and elimination of their consequences; 2) the system of the legal means aimed at providing and implementation of the relevant civil rights; 3) activity of court or other jurisdictional bodies from prevention and renewal of the violated right. The points of view of experts who consider legal protection as the system of the legal norms directed to prevention of offenses and elimination of their consequences belong to the first group (S. S. Alekseyev and others). At such approach the legal protection is actually identified with legal institute which norms provide realization of protective functions concerning existence and implementation of the relevant rights. S.S. Alekseyev considers that legal protection – "is the state and compulsory activity directed to renewal of the violated right, ensuring performance of legal obligations" [3, p.180]. "Legal protection", he specifies, "begin to develop from the moment of offense, and, with their help, actions of legal responsibility and protection of the subjective rights are carried out" [3, p.180]. In other words, protection of the subjective right is carried out by public authorities within the special law-enforcement relationships, and, thus, S. S. Alekseyev puts an equal-sign between legal protection and protection of the rights.

Concerning the definitions of the concepts "legal protection" and "protection of rights", the views of scientists are also different. Some jurists consider that legal protection is only a component of protection of rights. So, Ya. M. Shevchenko considers that "the concept of protection of rights includes at itself together actions of economic, political, ideological character which provide normal regulation of the public relationships, preventions of offenses, elimination of the reasons that them generates (regulatory norms), as well as the actions directed to renewal or recognition of the rights in case of its violation or contest, namely, – the protection (security norms)" [4, p. 76].

Other experts consider that "legal protection" and "protection of rights" are independent, separate categories. So, O. Degtyaryov means by "protection of rights" – "the preventive measures which are carried out by public authorities and public organizations for prevention of violation of the civil rights and also elimination of different obstacles which prevent realization of these rights" [5, p. 20-21].

We completely agree with the opinion of S. S. Alekseyev and others, and we consider that the concept "legal protection" and "protection of rights" are equal among themselves, because the protection of the rights is carried out in the corresponding procedure, by public authorities and within the special law-enforcement relationships.

Returning to the question of the definition of a concept of legal protection, to the second group belong the points of view of scientists (N. S. Malein, G. M. Stoyakin, V. M. Vedyakhin and others), who considers legal protection as the system of legal means aimed at providing and realization of the relevant civil rights .

N. S. Malein by the legal protection understands the system of the means allocated for prevention of offenses and elimination of their consequences [34, p. 192].

According to the opinion of G. M. Stoyakin, the legal protection includes three components: "1) the edition of norms which establish the rights and obligations, define its implementation, protection and applications of sanctions; 2) activity of subjects from implementation and protection of the subjective rights; 3) preventive activity of the state and public organizations and also activity from implementation of legal sanctions" [2, p. 34]. So, G.M. Stoyakin offered broad interpretation of legal protection which includes three specified elements. V. M. Vedyakhin notes that the term "legal protection" is used in different meanings, both in the legislation, and in scientific literature. In the legislation the most frequent concept of legal protection has rather abstract character and means the obligation of the state and its bodies to protect either these or those rights, or these or those objects, or these or those subjects of law [35, p. 83]. On our opinion, such approach to definition of the concept of legal protection shows in details all features of legal protection and its structure elements. Views of experts who considers the legal protection as activity of court or other jurisdictional bodies from prevention and renewal of the violated right, belong to the third group (R.O. Stefanchuk and others). So, R.O. Stefanchuk considers that it is necessary to understand as a concept of civil protection "a view and the measure of potential or obligatory impact of the public relationships provided by the law which came under illegal influence, for the purpose of the renewal broken, unrecognized or appealed right" [1, p. 94].

Thus, the concept "civil law protection" can be defined in three meanings: 1) as a system of legal norms; 2) as a system of legal means; 3) as an activity of court or other jurisdictional bodies. In the first meaning, as the civil law protection, it is necessary to understand the system of legal norms which is directed to protection of the rights of participants of legal relationships and renewal of their state, existed before violation. In the second meaning, the civil law protection consists in using legal "instruments" of protection of the persons' rights whose legitimate interests and the rights were violated. In the third meaning, the civil law protection is considered as activity of authorized bodies concerning protection of violated rights and interests of participants of legal relationships and also renewal of their legal status which existed before violation of the right.

Means of protection of the civil rights are provided in Article 16 of the CC of Ukraine. The judicial protection means of the civil rights and interests can be: 1) the recognition of the right; 2) the recognition of the legal transaction invalid; 3) the cancellation of the action which violates the right; 4) the renewal of the state which existed before violation; 5) the enforcement of obligations in kind; 6) the change of legal relationships; 7) the legal relationship's termination; 8) the indemnification and other ways of compensation of property harm; 9) the compensation of moral (non-property) harm; 10) the recognition of decisions, actions or inactions of public authority, authority of the Autonomous Republic of Crimea or local government body, their official and officials illegal. The court can protect civil rights or interests by other legal mean, established by the contract or the law [6, Art. 16].

However, in the CC of Ukraine the concept "means of protection" is not defined. In legal literature the unity of thoughts concerning definition of the specified concept is also absent. Besides, some authors do not define such concepts as "form" and "mean" of protection. Concerning a ratio of the concepts "form" and "mean" of protection – all existing points of view can be distributed on two groups. The first group includes the points of view of authors who distinguishes the concepts "form" and "mean" of protection (for example, V.V. Vitryansky, G. P. Timchenko, V. V. Butnev, M. K. Treushnikov). This group of authors understands by the form of protection the activity which is accurately determined by the law concerning protection of the right which is carried out by specially authorized bodies; that is, the form of protection is a complex of internally coordinated organizational means of protection of the subjective right that are carried out within the only legal regime [43; 44, 45].

The "protection form" in legal literature is also defined as "a set of internally coordinated organizational actions concerning protection of the subjective rights and interests, protected by the law" [7, p. 20]. "Under the mean of protection of the right considers the methods by which can be reached: the termination, inadmissibility, elimination of violation of the right, its renewal and/or compensation of the harm done by offense" [7, p. 14]. It is possible to mark out such features of means of protection: 1) it is independent civil law category; 2) they are directed to the termination, elimination and prevention of violation of the right; 3) their purpose is secure the performance of the obligation, and in case of commission of violation of the right – renewal of the violated right and hold the person accountable for violation the rights; 4) are implemented by authorized bodies and in the order established by the law.

It is possible to refer to the second group the points of view of authors which do not draw line between noted concepts (for example, O.O. Krasavchikov, M. I. Braginsky). These authors, identifying "form" and "mean" of protection, allocate such forms of protection as: a) recognition of the right; b) renewal of a state which existed before violation of the right and prevention of actions which broke such state; c) award to performance in kind; d) termination or change of legal relationship; e) providing the person, who violated the right, the done harm from ; e) the appeal to the competent authority given powers of authority [31; 30]. According to our point of view, it is necessary to agree with specialists from the first group who accurately distinct noted concepts. It is impossible to agree with the point of view of authors of the second group as the mean of protection can be implemented in a certain form, and, therefore, they are not identical on their value. For example, the appeal to competent authority – is the mean of protection, but such actions are implemented in an administrative and legal form. Thus, the concept "mean of protection" is independent category which should be distinguished from allied concepts, and it is possible to define as the certain methods or actions which are provided by the current legislation that are implemented in the order established by the law by authorized bodies, and which are directed to the termination, elimination and prevention of violation of the right, and in case of violation commission – renewal of the violated right and hold the person accountable for violation the rights.

In particular, the action of norms of the CC of Ukraine extends to the legal relationships arising from the contracts on providing financial services, and, therefore, the means of protection, listed in Article 16 o the CC of Ukraine, are applied to participants of the specified legal relationships. However, at application of the specified means of protection it is necessary to consider certain features of financial services. Also there are questions whether all means of protection provided in Article 16 of the CC of Ukraine can be applied to participants of such legal relationships, and, as such list not exhaustive, whether there are specific means of protection inherent only in financial services.

2. The General Features of Protection of the Rights of the Participants of the Legal Relationships arising from the Contracts on Providing Financial Services

The protection of the rights of the participants of the legal relationships arising from the contracts on providing financial services is regulated by the Constitution of Ukraine, the CC of Ukraine, the Code of Civil Procedure of Ukraine, the Law of Ukraine of 12.05.1991 "About Consumers' Protection" [14], the Law of Ukraine of 12.07.2001 "About Financial Services and State Regulation of the Markets of Financial Services" [8]. Article 55 of the Constitution of Ukraine guarantees everyone the right for the appeal in court of decisions, actions or inactions of public authorities, local government bodies and officials [13].

The Law of Ukraine "About Financial Services and State Regulation of the Markets of Financial Services" notes the consumers in definition of a concept of participants of the markets of financial services [8, Art. 1]. Participants of the markets of financial services are legal entities and natural persons – subjects of an entrepreneurial activity who have the right to carry out activity from providing financial services, and consumers of such services [8, Art. 1]. Part 1 of Article 22 of the Law of Ukraine "About Consumer Protection" directly indicates that consumer protection, provided by the legislation, is carried out by court [14] (such ways of protection are enshrined in Article 16 of the CC of Ukraine). Such ways of protection of the rights and interests of the participants of the legal relationships arising from the contract on providing financial services in Ukraine remains the most effective mechanism of protection of the violated right and a real possibility of its renewal.

The specified means of protection can be realized by competent public authorities: by the National Bank of Ukraine (concerning the market of banking services and activity from money transfer); by the National Securities Commission and the Stock Market (concerning securities markets and derivative securities (derivatives); by the National Commission which carries out State Regulation in the sphere of the Markets of Financial Services (concerning other markets of financial services); by the Antimonopoly Committee of Ukraine and other public authorities which supervise the activity of participants of the markets of financial services and obtain from them information within the powers determined by the law [8, Art. 21]. Unfortunately, in the law the accurate powers of the specified bodies are not defined.

Powers of the central body (The National Commission of Financial Services) and other bodies which carry out consumer protection are defined in Art. 26, 27 of the Law of Ukraine "About Consumer Protection", the Cabinet Decree of 23.11.2011 "About the National Commission which carries out State Regulation of the Markets of Financial Services" [20].

However, as it is clear from the Articles 26, 27 of the specified Law and the specified Decree, powers of such bodies extend to consumer protection in the relations with producers of goods and contractors. As for three main bodies which carry out regulation of the market of financial services, – the provisions concerning their concrete powers are absent. The Draft Law of Ukraine "About Modification to Some Acts of Ukraine concerning Improvement of Consumer Protection of Financial Services" of 29.12.2015, which expects the second reading in parliament contains separate provisions concerning powers of the National Bank of Ukraine in the sphere of consumer protection of financial services [18].

According to the Draft Law, the National Bank of Ukraine will have the right to determine the minimum information which will have to be provided to the consumer of financial services and for its failure or providing for deception will be fined. The lack of notifications of the consumer about the facts provided in the law (for example, about change of a floating interest rate or about retreat of the rights of the requirement for the contract on providing financial service, if it is required by the law), as well as failure to provide to the client of the copy of the contract, will also be punished by regulatory penalties [18].

Also in this Draft Law it is offered to make significant changes to the existing system of financial services, having entered new body of protection of the rights of the participants of the legal relationships arising from the contracts on providing financial services, – "the Financial Ombudsman" [18]. Unfortunately, in this Draft Law the concrete, accurate powers of new body of protection meanwhile are not defined. According to our point of view, creation of such independent special body is expedient. In particular, the main competence of "the Financial Ombudsman" has to consist in the decision as pre-judicial settlement of disputes concerning protection of the rights of the participants of the legal relationships arising in the sphere of providing financial services.

We consider that determination of the competence of such special body is needed to be introduced in the financial legislation of Ukraine. We completely agree with provisions concerning powers of the Financial Ombudsman which are defined in the Draft Law [18].

By means of adoption of the new law in Ukraine, it is tried to reconstruct the existing system of protection of the rights of the participants of the legal relationships arising from the financial services according to the existing system of protection in the European Union (further – the EU). So, approach of the EU to the system of the protection of the rights of the participants of the legal relationships arising from the contracts on providing financial services, relies on the principles which are established by the corresponding Directives.

By the Directive 2006/48/EU of the European Parliament and Council of June 14, 2006 "On Establishment and Implementation of Activity of Credit Institutions" and the

Directive 2006/49/EU of the European Parliament and Council of June 14, 2006 "About Sufficiency of Fixed Capital of Investment Firms and Credit Institutions", it is established that the participants of the legal relationships arising from the contracts on providing the financial services "have to have access to: sufficient information for acceptance the decisions upon purchase of financial services; to inexpensive mechanisms of protection against breaches of contract about providing financial services; to programs of financial education" [21, item 14.1; 22, item 10.2]. Also these Directives provide compensation and guarantee schemes of protection of specified persons.

Also, by the Directive 94/19/EU of the European Parliament and Council of 30.05.1994 "Concerning Schemes of Guaranteeing Deposits", the main types of guarantees of protection of the rights of the participants of the legal relationships arising from the contracts on providing the financial services, are established. So, "the general guarantees of protection of the rights of clients of banking institutions within the EU are: realization of state members of powers by national authorities concerning implementation of bank supervision and ensuring stability of a banking system; creation and activity of specialized body for coordination of action of supervisory bodies at the level of the EU; methodological ensuring control of activity of banks; establishment of an obligation of banks concerning preservation of a bank secrecy" [23, p. 48].

In separate types of banking services it is possible to allocate such guarantees of protection: "support of functioning of schemes of guaranteeing deposits according to the national legal system; the obligation of banks to the conclusion of the consumer credit agreement to provide to the borrower sufficient information on essential terms of agreement; an obligation of bank to accept early performance by the consumer of the credit agreement or the termination of participation in it under certain conditions; an obligation of bank to provide a basic information about the registered payments and monthly information on the account to the consumer; the recommendation to banks not to apply opaque methods of terrifying, openness of data on real expenses and meetings for provision of services; anticipation of a possibility of the client in case of timely informing on a case of not authorized or incorrectly performed payment operation to assert the rights during the period determined by the national legal system" [23, p. 48].

In our opinion, such provisions would be expedient to be included in the new law. Noted powers would allow concretizing functions of the authorized bodies concerning protection of the rights of the participants of the legal relationships arising from the contracts on providing the financial services.

There are defined in the Section VII of the Law of Ukraine "About Financial Services and State Regulation of the Markets of Financial Services" only "measures of impact" which are applied "in case of violation of laws and other normative legal acts which regulate activity from providing financial services". Such "measures of impact" are enshrined in Article 40 of the specified Law [8].

It is also possible to give examples concerning “measures of impact” which were applied by the National Commission which carries out State Regulation in the sphere of the Markets of Financial Services. The Order of the National Commission which carries out State Regulation in the sphere of the Markets of Financial Services of 12.02.2019 established application of such measure of impact as the cancellation of license [41]. The order of 27.12.2018 applied as the measure of impact - the obligation of elimination of violation in a certain time [42]. On our opinion, not all above-mentioned is “measures of impact”, as “measures” and “means” are different behind the ultimate aim.

Concerning a concept of “measures” of protection of the subjective rights, S. S. Alekseev focused attention on existence of measures of protection of the subjective rights and enforcement of obligations as which he understood the measures to performance of obligations directed to renewal of the violated subjective rights of the injured person which are expressed in assignment of new obligations and provide renewal of the rights, irrespective of existence of fault of the person that violate them [3, p. 184]. Completely agreeing with the above-stated definition, it is necessary to distinguish such concepts as “means” and “measures” of protection. Actions which are made “within means of protection” have an ultimate aim to stop, to eliminate and not to allow violations of the right, and if the last was violated – to renew it and to make the offender responsible. Whereas “measures of protection” are actions that aimed at providing performance of the obligations and renewal of the right which was violated. The purpose of application of the last is to performance of existing obligations by any lawful way.

In particular, such actions, as: “to oblige the violator to take measures for elimination of violation and/or to take measures for elimination of the reasons which promoted violation commission; to demand convocation of extraordinary meetings of participants of monetary institution; to discharge the leadership of management of monetary institution and to appoint temporary administration” [8, Art. 40] should carry to “measures of impact” or to actions of ensuring implementation of the financial liability as commission of such actions is directed to implementation of the existing obligation. Such actions, as: “to impose penalties in the sizes provided by this Law; to stop or cancel temporary the license for the right of implementation of activity from providing financial services; to approve the plan of renewal of financial stability of monetary institution; to exclude according to the legislation of participants of the markets of financial services (except consumers of financial services) according to the State register of monetary institutions or the Register of persons which are not monetary institutions, but have the right to render separate financial services; to establish for non-bank financial groups economic standards, limits and restrictions concerning implementation of separate types of operations are raised; to make the decision on the ban to the non-state pension funds - subjects of the second level of a system of provision of pensions to sign new pension contracts with participants of an accumulative system of obligatory state pension insurance in case of violation of the requirements

established for such non-state pension funds by the law and license conditions" [8, Art. 40] should carry to "means" of protection as their aim is to stop violation, and in case of violation commission – application to the offender of negative consequences.

Also in the Law of Ukraine "About Financial Services and State Regulation of the Markets of Financial Services" it is noted that the purpose of state regulation of the markets of financial services is "protection of interests of consumers of financial services" [8, Art. 19]. In the Article 20 of this Law there are listed actions which belong to forms of state regulation of the markets of financial services [8]. According to our opinion, such forms of state regulation of the markets of financial services as their purpose is the termination of offense and imposing on the offender of civil responsibility, it is possible to carry to specific ways of protection of participants of financial legal relationship which arise from contracts on providing financial services and are carried out in an administrative form.

Therefore, on the basis of the conducted legislation research, we offer the following system of means of protection of the rights of the participants of the legal relationships arising from the contracts on providing the financial services:

1. The general means of protection which can be realized in a judicial form: 1) the recognition of the right; 2) the recognition of the legal transaction invalid; 3) the cancellation which violates the right; 4) the renewal of situation which existed before violation; 5) the compulsory performance of obligations in kind; 6) the change of legal relationship; 7) the legal relationship termination; 8) the indemnification and other ways of compensation of property harm; 9) the compensation of moral (non-property) harm; 10) the recognition illegal decisions, actions or divergence of public authority, authority of the Autonomous Republic of Crimea or local government body and officials.

2. Special means of protection which can be realized in an administrative form: 1) imposing of a penalty in the sizes provided by the legislation; 2) to stop or cancel temporarily the license for the right of implementation of activity from providing financial services; 3) to approve the plan of renewal of financial stability of monetary institution; 4) to exclude according to the legislation of participants of the markets of financial services (except consumers of financial services) according to the State register of monetary institutions or the Register of persons which are not monetary institutions, but have the right to render separate financial services; 5) to establish for non-bank financial groups economic standards, limits and restrictions concerning implementation of separate types of operations are raised; 6) to make the decision on the ban to the non-state pension funds – subjects of the second level of a system of provision of pensions to sign new pension contracts with participants of an accumulative system of obligatory state pension insurance in case of violation of the requirements established for such non-state pension funds by the law and license conditions; 7) the maintaining the state registers of monetary institutions and registers of persons which are not monetary institutions, but have the right to render separate financial services, and licensing of activities for providing financial services; 8) the

legal regulation of activity of monetary institutions; 9) supervision of activity of participants of the markets of financial services (except consumers of financial services); 10) the application authorized public authorities of actions of influence.

According to the CC of Ukraine, "self-defense is application by the person of methods of counteraction which are not prohibited by the law and do not contradict the moral principles of society" [6, Art. 19]. Self-defense does not belong to means of protection of the rights of the participants of the legal relationships arising in the sphere of providing the financial services, as one of the parties will be the special subject, legal entity to which self-defense cannot be applied. It is possible to apply any means of protection in judicial or in an administrative form, by the help of the authorized bodies. Thus, it is necessary to make the following changes to the Section VII "Measures of Impact" of the Law of Ukraine "About Financial Services and State Regulation of the Markets of Financial Services": 1. to make changes to the name of the section – to replace with "The Measures of Impact and Means of Protection"; 2. to make changes to Article 40 – to exclude actions which are not measures of impact (as it was proved above); 3. to supplement the Article 40.1 with "The Types of Means of Protection" which contains the following text: "In case of violation of the rights and legitimate interests of participants of legal relationships arising from the contracts on providing the financial services, it could be realized the applied means of protection in judicial and administrative forms". The general means of protection which can be realized in a judicial form: 1) the recognition of the right; 2) the recognition of the legal transaction invalid; 3) the cancellation which violates the right; 4) the renewal of situation which existed before violation; 5) the compulsory performance of obligations in kind; 6) the change of legal relationship; 7) the legal relationship termination; 8) the indemnification and other ways of compensation of property harm; 9) the compensation of moral (non-property) harm; 10) the recognition illegal decisions, actions or divergence of public authority, authority of the Autonomous Republic of Crimea or local government body and officials.

Special means of protection which can be realized in an administrative form: 1) imposing of a penalty in the sizes provided by the legislation; 2) to stop or cancel temporarily the license for the right of implementation of activity from providing financial services; 3) to approve the plan of renewal of financial stability of monetary institution; 4) to exclude according to the legislation of participants of the markets of financial services (except consumers of financial services) according to the State register of monetary institutions or the Register of persons which are not monetary institutions, but have the right to render separate financial services; 5) to establish for non-bank financial groups economic standards, limits and restrictions concerning implementation of separate types of operations are raised; 6) to make the decision on the ban to the non-state pension funds – subjects of the second level of a system of provision of pensions to sign new pension contracts with participants of an accumulative system of obligatory state pension insurance in case of

violation of the requirements established for such non-state pension funds by the law and license conditions; 7) the maintaining the state registers of monetary institutions and registers of persons which are not monetary institutions, but have the right to render separate financial services, and licensing of activities for providing financial services; 8) the legal regulation of activity of monetary institutions; 9) supervision of activity of participants of the markets of financial services (except consumers of financial services); 10) the application authorized public authorities of actions of influence".

3. The Peculiarities of the Protection of the Rights of the Participants of the Legal Relationships arising from the Separate Types of the Contracts on Providing the Financial Services

The list of financial services is enshrined in Article 4 of the Law of Ukraine "About Financial Services and State Regulation of the Markets of Financial Services" [8]. It is possible to apply the general civil law means of protection to all listed financial services and special means that are used in the sphere of financial services. However, depending on a type of financial service – from taking into account of peculiarities and features of the last. In our scientific research we will consider peculiarities of protection of the rights in separate types of such contracts. In particular, such type of financial services as release of payment documents, payment cards, traveler's checks and/or their service, other forms of ensuring calculations is regulated, except the CC of Ukraine and the Law "About Financial Services and State Regulation of the Markets of Financial Services", by the Law of Ukraine "About Payment Service Providers and Money Transfer in Ukraine". Considering ways of protection of the rights of the participants of the legal relationships arising from the contract of this type of financial service it is necessary to consider relevance of information for the last.

Noted law did not install the concrete system of information security, however, leaving standards of the specified law, it is possible to allocate such special means of protection: 1) establishment of a special order of providing information services [19, Art. 40]; 2) establishments of responsibility for violation of measures of ensuring information security [19, Art. 39]; 3) introductions and uses of a uniform system of information security [19, Art. 39]. Other rights which do not concern instructions for use of information are protected in the general order which was considered above. The relations which arise in the sphere of trust management of financial assets and property are regulated, except the CC of Ukraine and the Law "About Financial Services and State Regulation of the Markets of Financial Services", by the Law of Ukraine of 7.12.2000 "About Banks and Bank activity" [24], the Law of Ukraine of 5.07.2012 "About Institutes of the General Investment" [25], The Decree of the National Securities Commission and the Stock Market of 5.12.2014 "About Features of Implementation of Activity from Management of Assets of Institutional Investors" [26]. Above-mentioned special acts do not provide provisions concerning protection of the rights of the participants of the legal relationship arising from the contracts of trust management of financial assets and property. Therefore, it is necessary to be guided by general provisions concerning protection.

The following financial service noted in the list is activity from a currency exchange. The last is regulated by the CC of Ukraine, the Law of Ukraine "About Financial Services and State Regulation of the Markets of Financial Services", the Law of Ukraine "About Banks and Bank Activity", the Law of Ukraine of 21.06.2018 "About Currency and Currency Transactions"" [28]. The Law of Ukraine "About Currency and Currency Transactions" does not contain separate provisions concerning protection of the rights of the participants of these legal relationship, however, Article 14 contains "Measures of Impact": "1) to banks – measures of impact according to the Law of Ukraine "About Banks and Bank Activity"; 2) to authorized institutions (except banks): a) written caution; b) restriction, stop or termination of implementation of separate types of currency transactions; c) penalties; d) stop or withdrawal (cancellation) of the license for implementation of currency transactions; 3) to legal entities (except authorized institutions) – in the form of penalties; 4) to natural persons, public officials of authorized institutions, public officials of legal entities – the measures of impact in the form of penalties provided by the Code of Ukraine about Administrative Offenses" [27]. On our opinion, such measures of impact prevent commission of violations.

Such service as attraction of financial assets with the obligation of their rather following return is regulated by the CC of Ukraine, the Law of Ukraine "About Financial Services and State Regulation of the Markets of Financial Services", the Resolution of Cabinet of Ministers of 7.12.2016 "About the Statement of License Conditions of Implementation of Economic Activity from Providing Financial Services (except professional activity in securities market" [28]. Special provisions concerning protection of the rights of participants of this legal relationship are not enshrined in special acts, and, therefore, it is necessary to be guided by general provisions concerning protection.

Financial services in financial leasing are regulated by the CC of Ukraine, the Law of Ukraine "About Financial Services and State Regulation of the Markets of Financial Services", the Law of Ukraine of 16.12.1997 "About Financial Leasing" [29]. In Article 9 of the Law of Ukraine "About Financial Leasing" directly provided provisions concerning protection of the lessee: "Protection of his rights regarding leasing on an equal basis with protection, the established legislation concerning protection of the rights of the owner is provided to the lessee (sublessee). The lessee (sublessee) has the right to demand including from the lessor, elimination of any violations of its rights regarding leasing" [29]. It should be noted that provisions concerning protection of the rights of the lessor are not provided in the Law. Means of protection of the rights of the lessee are accurately not allocated, and that, by the general rule, the norms of the CC of Ukraine can be used.

The lessee appealed to court with the action of rescission of the contract of leasing with bank in connection with its unseemly performance by the lessor. In the claim the claimant referred to the general norms of the CC of Ukraine and also to the provisions of the Law "About Financial Services and State Regulation of the Markets of Financial Services".

The court met requirements of the claimant in full: "Having analyzed all above-stated facts in total and leaving noted regulations, the court came to a conclusion that the challenged contract of financial leasing should be nullified from the moment of commission as it is perfect as a result of deception, that is requirements of the claimant should be met, having collected in favor of the claimant of means in a size to the sum of 36000 UAH" [37]. From this Decision of the Vasilkovsky district court of the Dnipropetrovsk region of 26.12.2016 [37], comes up that the claimant used the general means of protection provided by Art. 16 of the CC of Ukraine. Financial services concerning granting means as a loan including on the terms of the financial credit are regulated by the CC of Ukraine, by the Law "About Financial Services and State Regulation of the Markets of Financial Services", the Law of 2.10.1992 "About Pledge" [30], etc. Proceeding from the analysis of the specified laws it is possible to allocate such ways of protection of the rights of participants of credit legal relationship: 1) penalty, the established law or the contract for a delay case; 2) indemnification, caused to the loan provider; 3) granting to the creditor the right for refusal of overdue performance if such right is not limited by the law or the contract; 4) responsibility of the borrower for impossibility of performance that accidentally came during delay. Besides, it is possible to nullify in a judicial proceeding currency credit agreements. Refer to the fact that liabilities have to be expressed and be carried out in UAH (Art. 533 of the CC of Ukraine). That is, issuing the credits in foreign currency, banks voluntarily and consciously increase own risks (what expect them, for example, in case of sharp falling of exchange rate)? Looks not really logically. Or it is the planned scheme that allows earning on changes in the exchange rate of currencies (as it occurs at the financial exchanges). For lawyers this question is ambiguous, and there is no only thought concerning it yet. However, this option can be used for protection of the rights of debtors – and as practice testifies, rather successfully. So on August 20 in 2009 the decision of Economic court of the Donetsk region on the claim of LLC Central Hotel (Donetsk) to the Bank was made (represented by the Donetsk branch). And on September 14 in 2009 The Donetsk Economic Court of Appeal confirmed the resolution of the first instance [38].

The banks provide responsibility of the parties in the form of a penalty fee in credit agreements. It is connected with the fact that the tax obligations of the income tax payer are defined during the actual receiving a penalty fee. That is it is expedient to apply a penalty fee in case of non-performance by the borrower of conditions of the credit agreement instead of increase in a payment for the credit. At the same time we will note that the penalty fee is way of ensuring implementation of obligations and cannot replace a payment for use of the credit in the form of percent. On a contractual basis also such way of ensuring implementation of credit obligations as bail which is also recognized as financial service by the Law of Ukraine "About Financial Services and State Regulation of the Markets of Financial Services". As comes up from the analysis of court practice, at the solution of a question concerning protection of the rights of the participants of the legal relationships arising from the contract of bail, the essential value is an ultimate aim of the last – or it is financial service, or way of ensuring implementation of the obligation.

So, by the Decision of Economic Court of the Zaporozhye region of 02.07.2007, the claim was refused in full. Person 1 appealed to court behind protection of the violated right which evolved from consumption of services of bail; – the service was rendered in an unseemly way. The court motivated the refusal in protection of the right of the claimant with the fact that the Law of Ukraine "About Financial Services and State Regulation of the Markets of Financial Services" establishes legal principles in the sphere of providing financial services by exclusively monetary institutions and other subjects of an entrepreneurial activity which exclusive type of activity is providing financial services, including provision of guarantees and guarantees. Thus - only bail which is provided by monetary institution in the context of the called Law is financial service. The provision of the called Law does not extend on other subjects of economic activity in other economic relations. The claimant is not monetary institution, such type of economic activity as providing financial services is not provided by the Charter of society "The medical center "Tair" and not declared as an exclusive type of its activity. Contract No. 96-DP2 signed by party litigants of 11.07.2006. The essence of bail is not the financial service, but the guarantee as the type of ensuring implementation of obligations provided by Article 546 the CC of Ukraine about what it is noted in a preamble of the challenged contract" [37].

From noted Decision it is possible to mark out the qualifying sign of bail as financial service. The monetary institution has to be the subject of providing such service. In that case, situation concerning protection of the rights of participants which arise from contracts of bail – can be realized in a judicial proceeding according to the specified Law. On the other hand, the material interest of the creditor can be protected indifferently – by insurance protection of solvency of his debtor. Credit insurance conditionally consists of two main spheres – own credit insurance and insurance of pledges, bail or guarantees under the obtained credits.

Also it is necessary to notice such "mean of protection of the rights" of the creditor as activity the collectors' companies. The task of the collectors' companies – is not only to organize the help to the creditor in return of money, but also to help the debtor, having provided legal consultation concerning the solution of questions of return of the credit. Also the companies of "black collectors" work. These are illegal associations which raise debts in the illegal ways. In connection with such activity the Ministry of Justice plans to forbid formation of these companies. The popularity of services of such companies is connected with insufficient efficiency of judgments, and if to consider such question systemically – that will turn out that the problem of non-compliance with balance between stimulation and restriction of social interests is fault to it [11]. According to our point of view, the credit history also belongs to ways of protection of the rights of creditors. The credit history is information on implementation of obligations under credit agreements. One of the main problems of relationship of creditors with borrowers, consists in absence at the creditor of full reliable information about the borrower with a certain historical retrospective, and at the borrower of opportunities quickly and easily to finish the business reputation on performance of liabilities.

Having considered ways of protection of the rights of the creditor, we will pass directly to ways of protection of the rights of the debtor (borrower). Article 1085, 1086 of the CC of Ukraine and the Law of Ukraine "About Consumer Protection" provide ways of protection of debtors (counterclaims of the debtor, inadmissibility of unreasonable increase in an interest rate unilaterally, etc.). As the question of credit legal relationship is very relevant now – special ways of protection of the rights of debtors were introduced. Firstly, this is the fictitious bankruptcy. In practice of bankruptcy very often happens so that the remains of property of the bankrupt enterprise by means of some frauds "are brought" out of the crisis enterprise in new to an insolvency proceeding. As a result there is such situation: the enterprise which has a debt is closed, and its property successfully works at the new enterprise. And provide to creditors the document on impossibility of meeting requirements due to the lack of property. As a result they can only write off receivables from balance at the expense of gross incomes. At the same time the debtor's heads, as a rule, do not bear any responsibility [40]. The contract of the credit can be nullified or partially invalid. This way of protection can be carried both to the loan provider, and to the borrower, what court practice testifies to. The Comintern district court of Kharkov region having considered in proceeding in open court in Kharkiv a civil case in the claim the PERSON 1 to the Alfa-Bank (CJSC), the third party the PERSON 2 about recognition partially invalid hollow the credit agreement, – accepted claim requirements the PERSON 1 to CJSC Alfa-Bank, the third party the PERSON 2, about recognition partially invalid to satisfy the provision of the credit agreement [39].

Also, proceeding from the analysis of norms of the CC of Ukraine force majeure is the basis of release from responsibility. According to Article 617 of the CC of Ukraine, "The person who violated the obligation is exempted from responsibility for violation of the obligation if she proves that this violation happened as a result of a case or force majeure" [6]. According to Article 679 of the CC of Ukraine, "if with the seller the provided guarantees concerning quality of goods, the seller is responsible for his shortcomings if he does not prove that they arose after his broadcast to the buyer as a result of violation by the buyer of instructions for use or storage of goods, actions of the third parties, a case or force majeure" [6]. In Article 906 by the CC of Ukraine it is enshrined that: "The performer who broke the contract on provision of services for a payment at implementation of an entrepreneurial activity by it, is responsible for this violation if he does not prove that appropriate performance was impossible as a result of force majeure if another is not established by the contract or the law" [6]. Therefore, the participant of legal relationship will be exempted from liability in case of force majeure, and the rights of such participant will be protected. Thus, it is possible to allocate the next means of protection of the rights of the participants of legal relationships arising from credit contracts, that are provided by the current legislation: 1) penalty, the established law or the contract for a delay case; 2) indemnification, caused by the loan of credit; 3) granting to the creditor the right for refusal

of overdue performance if such right is not limited by the law or the contract; 4) responsibility of the borrower for impossibility of performance that accidentally came during delay; 5) bail; 6) insurance protection of solvency of the debtor; 7) fictitious bankruptcy.

Besides, on our opinion, the means of protection of the rights of participants of the legal relationships arising from the credit contracts can also be considered: 1) activity of the collectors' companies; 2) credit history; 3) force majeure.

Concerning such financial services as provision of guarantees, money transfer, and pledge – it is necessary to apply general provisions concerning protection of the rights of participants of this legal relationship as special ways of protection are not provided by the law. Services in the sphere of insurance and in the system of accumulative provision of pensions, except the "general" laws which concern financial services are regulated by the Law of Ukraine "About Insurance". However, in the last it is not allocated special ways of protection for this financial service. Only in Article 42 it is noted that "the state guarantees control and protection of property and other rights and legitimate interests of insurers, conditions of free competition in implementation of insurance activity" [33].

Protection of the rights of participants of legal relationship which arise from contracts on providing other financial services (professional activity in securities market which is subject to licensing, factoring, administration of financial assets for purchase of goods in groups, property administrations for financing of construction objects that implementation of operations with the real estate according to the Law of Ukraine of 19.06.2003 "About financial and credit mechanisms and property administration at construction of housing and operations with the real estate", operations with mortgage assets for the purpose of issue of mortgage securities, banking and other financial services which are provided according to the Law of Ukraine "About Banks and Bank Activity") it is carried out in the general order which was considered above.

Thus, leaving the analysis of court practice and above-mentioned provisions that at protection of the rights of participants of legal relationship which arise from contracts on providing financial services, it is necessary to consider that in case there are special norms which regulate the sphere of these legal relationship, – special provisions are applied. In case of lack of special norms – it is necessary to use the general norms of rather civil protection. Besides, courts at accepted decisions concerning noted question, are guided by the general norms of the CC of Ukraine.

Conclusions

Thus, during the conducted research, defining theoretical bases of the protection of the rights of the participants of legal relationship arising from the contracts on providing financial services, the next conclusions were reached:

1. The concept "civil law protection" can be determined in three meanings: 1) as the system of legal norms; 2) as the system of legal means; 3) as activity of court or other jurisdictional bodies.

2. The concept "mean of protection" must be considered as the independent category on which it is necessary to understand certain methods or actions which are provided by the current legislation that are implemented in the order established by the law by authorized bodies, and which are directed to the termination, elimination and prevention of violation of the right, and in case of violation commission – renewal of the violated right and hold the person accountable for violation the rights.

At allocation of the general features of protection of the rights of the participants of the legal relationships arising from the contracts on providing the financial services, such conclusions were reached:

1. The special system of means of protection of the rights of the participants of legal relationships arising from the contracts on providing financial services was proposed.

2. It is offered to make the following changes to Section VII "Measures of Impact" of the Law of Ukraine "About Financial Services and State Regulation of the Markets of Financial Services": 1) to make changes to the name of the section - to replace with "The Measures of Impact and Means of Protection" ; 2) to make changes to Article 40 – to exclude actions which are not measures of impact (as it was proved above); 3) to supplement the Article 40.1 with "The Types of Means of Protection" the above-stated system.

At clarification of the peculiarities of the protection of the rights of the participants of legal relationships arising from the separate types of the contracts on providing financial services, there were drawn the conclusions that:

1. In case there are special norms which regulate the sphere of these legal relationships, – special provisions are applied. In case of lack of special norms – it is necessary to apply the general norms of civil protection.

2. Proceeding from the analysis of the current legislation, court practice, and Decisions of appropriate authorities, the next means of protection of the rights of the participants of the legal relationships arising from the contracts on providing credit services, that are provided by the current legislation are allocated: penalty, the established law or the contract for a delay case; indemnification, caused to the loan provider; granting to the creditor the right for refusal of overdue performance if such right is not limited by the law or the contract; responsibility of the borrower for impossibility of performance that accidentally came during delay; bail; insurance protection of solvency of the debtor; fictitious bankruptcy.

3. Besides, it was proved, that the means of protection of the rights of participants of the legal relationships arising from the credit contracts, can also be considered: 1) activity of the collectors' companies; 2) credit history; 3) force majeure.

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PLACE OF COMMITTING LONG-TERM CRIMES: TOPICAL PROBLEMS OF THEORY AND PRACTICE

Abstract. *Considers and systematizes the main theoretical views on the characterization of continuing crimes. The relevant provisions of the criminal legislation of several foreign countries are analyzed. It is established that in the science of criminal law presently there is no clear and unified understanding of the legal nature of these acts and their types. A scientifically substantiated and practically acceptable approach to establishing the place of committing crimes is formed on the basis of consideration of their legal nature.*

JEL Classifacation: K14, K42

Introduction

In the science of criminal law for a long time there are differences in the understanding of the legal nature and signs of prolonged crime. The aforesaid has a significant impact on the solution of many theoretical and practical issues, and not least - the establishment of a place of committing long-term crimes. The qualification of complicated single crimes is a major theoretical and law enforcement difficulty. Such kind of single crimes is not accidentally called “complicated”, since the relevant complexity concerns not only the objective aspect of the crime, but also many issues of their legal nature and legal consequences that occur (or may occur) in case of committing such crimes. A long-term crime takes a significant place among the analyzed acts. In science of criminal law, there is still no clear and unified understanding either of the legal nature of such acts or of the exhaustive list of features that constitute the concept of long-term crimes or the distinction of their varieties. In our opinion, the place of committing any long-term crime may be identified only by way of highlighting the correlation of the legal characteristics of the corresponding encroachment with its space-time characteristics. The disclosure of the legal nature of the varieties of long-term crimes will improve the knowledge of the place where they are committed.

1. Conceptual approaches to the concept of a long-term crime

The study of the views of the criminologists of Conceptual approaches to the concept of a long-term crimethe late nineteenth and early twentieth centuries on the legal nature of the long-term crime suggests that most scholars saw the essence of such an act as the continuity of its implementation at the stage of a complete crime. In particular, M.S.Tagantsev disclosed the essence of long-term crimes in the following way: these are the acts, long-term or such that are transferred to criminal state, when the encroachment on the norm, when once done, is repeated continuously until the onset of any opposite event [1].

The long-term crimes according to Ye. Ya. Nemyrovsky's (Dauerverbrechen) are consideredas attack in which the crime is continuously reproduced, and are carried out every moment [2]. L. S. Belogrits-Kotlyarevsky saw the essential feature of a long-term crime in the ability of criminal activity to be constantly and continuously reproduced in such a way that there appears a criminal state of a person, which lasts until its termination due to certain circumstances [3]. Later, in the Soviet era, the understanding of a long-term crime was changed in connection with the legal position of the Supreme Court of the USSR. So, in par. 2, cl. 1 of the resolution of the 23rd Plenum dated March 4, 1929, "On the Terms of Use of Limitation and Amnesty for Long-term and Continued Crimes, a long-term offense was defined as an act entailing a continuous criminal offense, or as a prolonged failure to act, which are required by law under the threat of criminal prosecution [4]. Later, in accordance with the changes made to the above-mentioned resolution dated March 14, 1963, a long criminal offense was defined as an act or failure to act, combined with a subsequent prolonged failure to perform the duties entrusted to a victim by law under the threat of prosecution" [5].

On this basis, V.M. Kudryavtsev defined the legal nature of the long-term crime as a result of failure of an individual to fulfil the legal obligation that arose due to his actions [6].

N. F. Kuznetsova criticized the definition of the concept of a long-term crime, which uses an indication of an individual's failure to fulfill his legal obligation. In the opinion of the scientist, this feature is not functional.It is necessary to make such an accent in the corresponding definition of the concept of a long-term crime: at the stage of the complete crime, it continues to be committed, as if prolonging a criminal consequence in time [7].

Nevertheless, the position of N.F. Kuznetsovawas criticized. V. Shumikhin pays attention to the positive and negative aspects of the latter definition. He notes that in this definition variant, the sign of the continuity of the commission of a criminal actiscorrectly emphasized, but the indication on prolonging in time of criminal consequences is inaccurate, since long-term crimes have the structure of a formal crime, which does not include the criminal consequences [8]. In general, both in the Soviet and in the modern theory of criminal law the researchers call the continuity of the commission of a criminal act or the continuity of the commission of the crime the undisputed sign of a long-term crime. For example, according to E.T. Borisov, long-term crimes constitute such criminal acts, the commission of which for more or less long time is continuously carried out at the stage of a complete crime. Continuity of committing long-term crimes is different from sustainable [9]. The peculiarity of long-term crimes V. P. Malkov sees in the fact that they are committed continuously for a more or less long period of time [10]. V. Chernov notes that the specific feature of any long-term crime is the continuity of a criminal offense (action or inaction). By its objective and subjective properties, it is the only criminal process (state) [11]. In a well-known monograph devoted to the plurality of crimes, M. I. Bazhanov pays attention to the analysis of complicated single crimes. In his point of view, "a long-term crime can be defined as a single offense that, being committed by way of action or inaction, is continuously carried out for more or less long time" [12].

O. Dudorov, O. V. Obodovsky and many other scholars adhere to this approach in the modern Ukrainian science of criminal law. Thus, according to O. Dudorov, a long-term crime is characterized by a continuous, constant implementation during a certain period of time of a criminal act [13]. O. Obodovsky understands a long-term crime as one that can be continuously committed at the stage of a complete crime during a certain (sufficiently large) period of time [14]. In addition, we note that in the theory of criminal law there is also a critical attitude to the notion of "continuity" as a mandatory sign of a long-term crime. For example, A.M.Ryshlyuk suggests instead of the sign "continuity" to use the sign "constant committing a long-term crime", or "constant implementation of its composition"."This feature is similar to "continuity", - A.M.Rishelyuk writes, - but is its clarifying factor - in our opinion, it is worth combining under this title and absolutely continuous committing a long-term crime, and those cases when the periods of continuous action alternating with small breaks in time, after which the same criminal behavior is restored - the same criminal is hidden, the same weapon is illegally stored, etc".[15]. That is, under the phrase "constant committing a crime" A.M.Ryshlyuk combines both continuous behavior and behavior that is restored after a short break - the temporary cessation of a certain action (inaction).

Note that A.M. Ryshlyuk's considerations are logical in general, since a long-term offense can be considered committed with small breaks, for example, storage of weapons. However, the terminology proposed by the author as a sign of a long-term crime – "the constant committing of the crime", in essence, does not contain anything new. The point is that the word "constant" in the first sense is interpreted as: "Which lasts all the time, without interruption; continuous, uninterrupted" [16]. Thus, the word "constant"means the same as "continuous". That is, criminal behavior with small breaks, the possibility of existence of which is underlined by A.M.Ryshelyuk, in this case, does not suffice an adequate terminological reflection in the concept of "constant".

V. Shumikhin calls the following signs of a long-term crime: 1) the continuity of the negative impact on the object of the crime; 2) the continuity of the commission of a criminal act or inaction, which forms a peculiar crime; 3) the purpose of the offender's actions. As a result, the scientist suggests the following definition of the concept of a long-term crime: an act that *continuously* infringes upon the object of criminal-law protection through its *continuous* implementation by the subject at the stage of the complete crime and in order to commit it *continuously* [8]. We believe that such "continuous" tautology does not allowto understand the subject of the study.

German criminal law, long-term crimes also belong to problematic issues of theory and practice. It was written by A. Ye. Zhalinsky, drawing attention to the position of one of the authoritative German scholars-criminalists K. Roksina concerning long-term crimes. According to K. Roksina, long-term delicts are acts in which the delict does not end with the commission of the act, but continues through the will of the subject as long as the criminal status (*Zustand*) created by him is preserved [17].

Thus, in the science of criminal law there are differences in the understanding of the legal nature and signs of continued crimes for a long time. The above has a significant impact on the solution of practical issues, in particular, the establishment of a place of committing long-term crimes. Thus, the purpose of this study is to form a scientifically grounded and practically acceptable approach to establishing the place of committing long-term crimes on the basis of disclosure of their legal nature.

Current Criminal Code of Ukraine defines the concept of an continuing crime (Part 2 of Article 32), while the definition of a long-term crime is formulated by the theory of criminal law. In addition, we note that the criminal codes of some countries contain a definition of the concept of long-term crimes. Thus, Part 1 of Art. 13 of the Criminal Code of Georgia refers to a long-term criminal offense envisaged by one of the articles or parts of the articles of this Code, the commission of which commences by action or inaction, and which continues to be carried out continuously [18]. According to Part 4 of Article 23 of the Criminal Code of the Republic of Latvia a separate long-term criminal act is the continuous implementation of a single criminal act (action or inaction) associated with the subsequent prolonged failure to perform duties that the law puts at fault on the criminal [19]. In accordance with Part 1 of Art. 29 of the Criminal Code of the Republic of Moldova, an act characterized by the continuous commission of criminal activity for an indefinite period of time is a long-term crime [20]. Part 5 of Art. 19 of the Criminal Code of the Republic of Tajikistan provides that: a crime, which consists of prolonged failure to perform duties, characterizing the continuous implementation of one long-term crime is not considered repeated [21]. Identical definition of the concept of a long crime is contained in Part 4 of Art. 32 of the Criminal Code of the Republic of Uzbekistan [22].

Thus, all legislative definitions of a long-term offense include an indication of such a feature as the continuity of the commission of a crime. In the criminal codes of the republics of Georgia and Moldova, the legislator stops on this feature of long-term crimes and does not add to others. At the same time, the criminal legislation of the republics of Latvia, Tajikistan and Uzbekistan, as an additional sign of this crime, provides for the following long non-fulfillment of duties assigned to a person. The difference in legislative approaches to defining the concept of a long-term crime depends on the perception of one or another theoretical position regarding the legal nature of such crimes. In order to illustrate similar approaches within the continental system of law regarding the understanding of the legal nature of lengthy crimes, V. Shumihkin points out, as an example, Art. 56 of the Dutch Criminal Code (hereinafter referred to as the Criminal Code of the Netherlands), and notes that this definition refers to such a characteristic subjective feature of a long-term offense as the object of a criminal act of a subject [8]. We consider such observation to be incorrect. Direct reference to the contents of Art. 56 The Netherlands Criminal Code makes it possible to ensure that it refers to a continuing, rather than a long criminal offense: “If several actions are related in such a way that they can be considered as one continuous activity, regardless of whether there is any crime or offense in itself , only one norm should be applied” [23].

To date, in the science of criminal law, there are two approaches to understanding the design of the syllables of long-term crimes. Representatives of one approach believe that all long-term crimes have only a formal composition (V. Shumikhin, V. Chernov, etc.). For example, V. Chernov writes that all long-term syllables are constructed by the legislator as formal - the consequences are beyond their borders [11]. Other scholars insist that there are long-term crimes with material resources [24]. The conclusion on the construction of long-term crimes as formal ones cannot be unconditionally perceived today. Some warehouses of long-term crimes are actually formulated by the legislator as material. For example, there are evading taxes, fees (mandatory payments). Disposition of the norm provided for in Part 1 of Art. 212 of the Criminal Code of Ukraine, contains a crime-generating feature – "if these acts led to the actual non-receipt of funds in the budgets or state target funds in significant amounts". The actual non-receipt of funds is a socially dangerous consequence, which in the theory of criminal law is called "non-receipt of due".

Ignoring this circumstance may lead to the formulation of disputed legal positions. Thus, I.O. Zinchenko and V. I. Tyutyugin, in general, correctly point out that most of the long-term crimes usually start from inactivity, for example, by avoiding payment of alimony for the maintenance of children (Article 164 of the Criminal Code) [25]. At the same time, the words "offenses that begin with inactivity" precisely needs to be clarified, since under it two different legal consequences of the situation can be understood: 1) the beginning of the execution of the crime, but before its completion, which occurs later and is associated with the onset of a certain legal fact ; 2) a situation where the inactivity in itself forms the complete structure of the crime. In our opinion, the first of these options represents the evasion of taxes, duties (compulsory payments) [art. 212 of the Criminal Code of Ukraine], since inaction in the form of tax evasion does not form the finished crime yet - the crime will be terminated from the moment of the criminal offense, namely the actual non-receipt of funds to the budgets or state target funds in significant amounts. While evasion of payment of alimony for the maintenance of children (Article 164 of the Criminal Code of Ukraine), the fact of inactivity - failure to comply with the relevant decision of the court - already forms the complete structure of the crime.

At the same time, it should be borne in mind that the issue of attributing tax evasion (Article 212 of the Criminal Code of Ukraine) to long-term crimes in domestic science of criminal law is debatable. Thus, O. O. Dudorov considers characteristic of long-term crimes that the long and continuous non-fulfillment of guilty obligations, which occurs after the commission of the original single act, is included in the objective (in the original, the "object» is written that is technical Error - T.R.) parties to a criminal offense, covered by the composition of a specific crime [13]. Here O. Dudorov agrees with the position of A.M. Ryshlyuk, who writes:"Inthe same cases, when the prolonged action or inaction, which goes beyond the original act of a crime, goes beyond the limits of the composition, the crime should not be considered long-term" [15].

Consequently, according to O. Dudorov, there is no reason to admit a long-term offense, stipulated in Art. 212 of the Criminal Code, although the obligation to pay the tax and the fee after the expiry of the established term, is retained for the payer. The moment of non-fulfillment of the duty stipulated by the tax law after the crime is over, does not affect the qualification of evasion of taxes and fees. Further non-fulfillment of the fiscal, and not criminal law in character of the duty of the composition of the crime, stipulated by Art. 212 of the Criminal Code, is not covered and, from the standpoint of the criminal law assessment of the committed by this norm, does not matter, how much time it would last [13].

It follows from the aforementioned position that O. Dudorov acknowledges only non-fulfillment of a criminal-legal duty by a guilty as a sign of a long-term offense - a duty not to carry out certain actions prohibited by a criminal law (to store weapons or drugs, to participate in a gang, etc.). The consistent logical development of this view leads to the conclusion that other crimes formulated by the legislator as evasion of the fulfillment of a certain legal obligation established by other laws (not criminal-law nature) cannot be consideredlong-term.For example, alimony responsibilities for keeping a child are established by family law. For their malicious non-fulfillment criminal liability is provided (Article 164 of the Criminal Code of Ukraine). That is, as in the case of tax evasion, the moment of non-fulfillment of the obligation settled by the family law after the end of the crime (the guilty has refused to pay alimony in spite of the court's decision), the qualification of this crime will not be affected. However, in this situation, O. Dudorov thinks differently: he admits evasion from paying alimony for the keeping of children by a long-term criminal offense, since a long-term criminal offense can end because of an independent one and, as an example, leads to the death of a child, whose detention was evaded by the guilty [13].

Thus, logic requires: either not consider all types of crimes committed by avoiding the fulfillment of obligations established by other (non-criminal) laws as long-term, or to recognize that tax evasion as long-term.

In the process of distinguishing between long-term and continuing crimes, A.M.Orazdurdiyev sees the first and most important difference between them in the fact that continuous character of a long-term crime is underlined in the content of the article of the criminal law. For example, if the word “evasion”is used in the disposition, then this indicates a long-term, continuous nature of this crime [26].

According to A. O. Orazduriyev, in the theory of criminal law, some simple crimes are unreasonably referred to a group of long-term. So, when using a fake document, even a single actwill be completed by the composition of the crime, which will be covered by the relevant article. The same thing should be noted about the wearing of cold weapons. Even if the guilty one goes out with a knife and is immediately detained, he will be prosecuted for wearing a cold weapon. It follows that several acts of wearing one and the same weapon with the same purpose are continued, and not a long-term crime [26].

2. Classification of long-term crimes

Criminal legal literature offers different approaches to the classification of long-term crimes. Thus, V. Chernov believes that the list of long-term crimes is small and in the nature of the objective side, they can be divided into two groups: a) different kinds of evasion from the duties imposed by the law on a guilty; b) storage of prohibited items [11].

According to I. O. Zinchenko and V. I. Tyutyugin, the basis for the classification of long-term crimes is to recognize the active (action) or passive (inaction) nature of the act from which the implementation of the objective side of the crime begins. On the basis of this, they distinguish a group of crimes related to the long non-fulfillment of duties imposed on a person by a criminal law (for example, provided for in Articles 164, 165, 212^1, 2121, 214) and a group of crimes related to a long violation of the prohibition established the law (in particular, provided for in Articles 146, 147, 263, 307, 311, 393 of the Criminal Code) [25].

Most other scientific approaches to the classification of long-term crimes largely repeat the above division. At the same time, sometimes there are attempts to expand this classification due to the introduction of the third group of long-term crimes. For example, T.G. Chernenko proposes to select a third group of long-term crimes related to the illegal restraint of the will of the victim [27]. I. O. Zinchenko and V. I. Tyutyugincriticize this position; in their point view, there is not sufficient reason for such an extended classification, since crimes of the second and third groups are inherently related to the violation of the various prohibitions established by law [25]. In our opinion, the more logical point of view is the position of those authors, whose signs of long-term crimes of the third group see as such that began with the active actions of the perpetrator, continues in the form of inaction, that is, evasion from performing a certain duty , charged with criminal law. Such crimes include escapes from the place of imprisonment or from custody and desertion [9]. Another criminal-law description of escape from a place of imprisonment or from custody is given by I. O. Zinchenko and V. I. Tyutyugin. They disagree with the position that further actions of the subject of escape or desertion are inactivity and insist that escape from the place of imprisonment or custody is characterized by a long-term action [25]. The above-mentioned peculiarities of the legal nature of long-term crimes affect the *place* of their commission.

3. The question of establishing a place of committing a long-term crime

On this issue in the field of criminal law there have been discussions and they still continue. During the times of the USSR, the importance of this issue was given to complex cases of determining the place of committing a long-term offense committed on the territories of several Union republics. M. I. Bloom correctly noted that the correct identifying of the place of commission of crime in accordance with the requirements of Part 1 of Art. 4 Fundamentals of the criminal legislation of the Union of Soviet Socialist Republics and the Union republics are not only theoretical interest, since the criminal codes of these republics provides for different penalties for committing the described crimes [28].

In this aspect, for example, V. Chernov wrote that the main criterion for establishing a place of committing a long-term offense should be recognizedas law-enforcement interest, which is harmed. On the basis of abovementioned, scientist drew attention to the decision of the Soviet criminal law on the place of committing a long-term crime in those situations where the guilty committed certain actions in the territories of several union republics: "A person who illegally retains firearms in the territories of various union republics is equally dangerous and a threat to public safety. Therefore, its actions qualify for the Criminal Code of the Union republic, where the criminal activity was completed or ceased (loss of weapons, appearance with confessions, interference of the authorities, etc.)" [11].

At the same time, another approach was used to establish the place of escape from places of imprisonment or custody. V. Chernov emphasized that the escape ended with the moment of the release of the guilty person outside the place of imprisonment or control of the guard. This crime, in his opinion, ends with the apprehension of the person who fled, or as a result of his appearance with confession. The judicial and investigative practice of the USSR recognized only the location of the correctional establishment, the pre-trial detention, where the escape occurred from where the crime was committed [11]. That is, the practitioners essentially developed a rule according to which this long criminal offense was committed in the place where the socially dangerous act, which formed the finished crime, was commenced and ended. K. L. Akoyev emphasized the problem of identifying the place of committing long-term and continuous crimes recorded in the territory of several sovereign states. The peculiarity of their objective side is that it is characterized by either continuous implementation, which is manifested in the performance of the guilty legal obligation to act or refrain from action, or the execution of a series of identical, encroaching on one object, about united by the unity of criminal intent, actions. In that case, and in other cases, it is the only crime that, when it is finished, is committed in the territory of several sovereign states [29].

The scientist noted that in Soviet times in the theory of the location of the commission of such crimes and the selection of the criminal-law required for qualification (from among the competing Criminal Cords of the corresponding Union republics), the widespread opinion was that in such cases the Criminal Code of the Union republic, which contains the most severe punishment should be applied for the committed long-term or continuing crime [30].

At the same time, the right of each Union republic to establish the form and extent of punishment for the crime was its sovereign right (unless liability for it was determined by the all-Union legislation), and therefore bringing a person to criminal responsibility for the CC of the Union Republic, which provided for the most severe punishment, certain the extent would violate the rights of other union republics in the area of their criminal jurisdiction.The current judicial practice was moving in a different way. It developed certain rules in relation to the cases of the analyzed category, which cannot be agreed upon. These rulesshould be emphasized: a long-term crime was recognized as committed in the place where the socially dangerous act was commenced and ended, which formed the finished crime.

In deciding on the application of the criminal law to long-term crimes committed on the territory of two or more republics, V. Kudryavtsev believed that in such cases, there are four possible solutions: 1) a long-term offense is qualified according to the law of the Union republic, which recognizes this crime in a comparable way more severe; 2) a long-term offense is qualified according to the law of the republic where the long-term offense is commenced; 3) a long-term offense is qualified according to the laws of the republic where the long-term offense has ended; 4) during the qualification of a long-term offense, the intensity of the actions of the person in different territories, the duration of the act, the nature and degree of public danger of these actions, etc., are taken into account.According to V.M. Kudryavtsev, as the basis of the discussion, it would be worth taking the first and third decisions and using them not as equivalent, but in a certain combination: if a long-term crime in the territory of the republics, where it is committed, is evaluated differently from the point of view of its severity, then more stringent law should be used; if the severity of this crime in both territories is by law the same, then it is worth applying the law of the republic where the crime was completed [31].

Analyzing views of V.M. Kudryavtsev, M.I. Bloom concluded that the third solution proposed by the scientist was more correct: to qualify a long-term criminal offense under the law of the republic where it was completed [28]; in all cases where the only continuous or continuous crime is committed in the territories of two or more republics and harms the lawful interests of these republics, it should be qualified in accordance with the criminal law of the republic where the commission of the long-term offense was terminated or where the last one was committed from homogeneous criminal acts, which form the single continuing crime [28]. M.D.Durmanov, in his turn, proposed to recognize the place of committing a long-term crime in any place where such a crime was committed for some time and, therefore, it is possible to apply the criminal law of any of the Union republics in the territories where it was committed, depending on the place where the guilty is brought to criminal responsibility and given to the court [32]. O. V. Obodovsky discussed the subject of this issue in modern Ukrainian science of criminal law. In his opinion, only one aspect of the issue about the place of committing a long-term crime can be considered at present, namely: in case where person who committed a long-term criminal offense in Ukraine only partially, would be subject to criminal liability for the Criminal Code of Ukraine. However, this situation is solved unambiguously: according to Part 1 of Art. 6 of the Criminal Code of Ukraine, persons who committed crimes on the territory of Ukraine are subject to criminal liability for the Criminal Code of Ukraine, and in Part 2 of this article it is clearly determined that a crime is deemed committed on the territory of Ukraine if it was commenced, extended, completed or terminated in the territory Ukraine (a similar regulation - stipulated in part 2 of Article 6 of the Criminal Code of Ukraine, the Criminal Code does not contain). Accordingly, a person is subject to criminal liability for the Criminal Code of Ukraine in the event that a lengthy crime in the territory of Ukraine was committed at least partially [14].

Thus, the main feature of a long crime, which reflects its legal nature, in the theory of criminal law recognize the continuity of the commission of a particular crime. Such an understanding of a long-term crime can lead to the conclusion that the place of its commission is everywhere, where is the subject of a criminal state. Some scholars suggest to consider a long-term criminal offense committed where its not legal, but actual completion took place.

In turn, the situation of the commission of a crime is a combination of the place and time of the commission of a crime. An important conclusion goes out of that: the place of committing a crime cannot be "anywhere", just as the time of committing a crime cannot be "at any time" - there is always a "binding" of the person's behavior to the space-time continuum. In our opinion, this "binding" is carried out solely by committing a socially dangerous act - it always takes place at a certain time and in a certain place, although in the future the person may well be in the so-called "criminal state", characterized by the continuous implementation of the crime. However, it has been established that lengthy crimes, in turn, are divided into several types, which differ significantly in legal characteristics. Not going into other classification of long-term crimes, we note the most common of them: a) crimes related to active behavior in the form of a long-term violation of the criminal law; b) crimes committed by long-term evasion of certain duties. Obviously, such different legal characteristics of the long-term crimes should be "brought to one denominator" from the point of view of the place of their commission. A considerable rule, developed by the USSR judicial practice for escaping from the place of serving a sentence or from custody, may help us here: this long-term criminal offense was acknowledged committed at the place where the socially dangerous act, which formed the finished crime (the first the kind of long-term classification crimes that we are considering in this article)

The long-term nature of the violation lies in the fact that after the completion of a socially dangerous act, which forms the finished crime, the person falls into the so-called "criminal state" - for example, having escaped from the place of imprisonment, is "in running". Each continuous crime is characterized by the fact that the act of the person contains the composition of the completed crime in the legal sense, and in fact - the presence of the subject in a state of "violation of the criminal prohibition" - the storage of weapons, the storage of drugs, etc. The same rule can be extrapolated to long-term crimes committed by avoiding certain responsibilities. The place of commission of such crimes may be considered that part of the territory of the state where the subject of the offense was obliged to act on the proper performance of the corresponding obligation, the failure to fulfill which formed the legal term, which ended in the crime. If it is even simpler to formulate the essence of the above-mentioned approach, then the *place of committing a long-term crime* (both of these varieties) should be considered the place where the person committed the act (action or inactivity) through which the person received a "criminal state". We believe that such a theoretical solution will simplify the practice of law enforcement and at the same time allow solving the problems of establishing a place of committing many remote offenses, for example, computer ones.

Conclusions.

In science of criminal law, there is still no clear and unified understanding either of the legal nature of such acts or of the exhaustive list of features that constitute the concept of long-term crimes or the distinction of their varieties.

Thus, in the science of criminal law there are differences in the understanding of the legal nature and signs of continued crimes for a long time. The above has a significant impact on the solution of practical issues, in particular, the establishment of a place of committing long-term crimes. Thus, the purpose of this study is to form a scientifically grounded and practically acceptable approach to establishing the place of committing long-term crimes on the basis of disclosure of their legal nature.

Current Criminal Code of Ukraine defines the concept of an continuing crime (Part 2 of Article 32), while the definition of a long-term crime is formulated by the theory of criminal law. In addition, we note that the criminal codes of some countries contain a definition of the concept of long-term crimes.

Thus, all legislative definitions of a long-term offense include an indication of such a feature as the continuity of the commission of a crime. In the criminal codes of the republics of Georgia and Moldova, the legislator stops on this feature of long-term crimes and does not add to others. At the same time, the criminal legislation of the republics of Latvia, Tajikistan and Uzbekistan, as an additional sign of this crime, provides for the following long non-fulfillment of duties assigned to a person. The difference in legislative approaches to defining the concept of a long-term crime depends on the perception of one or another theoretical position regarding the legal nature of such crimes.

Criminal legal literature offers different approaches to the classification of long-term crimes.According to I. O. Zinchenko and V. I. Tyutyugin, the basis for the classification of long-term crimes is to recognize the active (action) or passive (inaction) nature of the act from which the implementation of the objective side of the crime begins. On the basis of this, they distinguish a group of crimes related to the long non-fulfillment of duties imposed on a person by a criminal law (for example, provided for in Articles 164, 165, 212^1, 2121, 214) and a group of crimes related to a long violation of the prohibition established the law (in particular, provided for in Articles 146, 147, 263, 307, 311, 393 of the Criminal Code) [25].

The above-mentioned peculiarities of the legal nature of long-term crimes affect the *place* of their commission. On this issue in the field of criminal law there have been discussions and they still continue.

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MODERN STATE MIGRATION POLICY OF UKRAINE. GUARANTEE FOR PROVIDING LEGISLATION ON THE IMPLEMENTATION OF THE RIGHTS AND FREEDOM OF PHYSICIAN PROFESSIONALS IN THE MIGRATION SECTOR

Abstract. *The article highlights the problems and important tasks facing the society and the state today, namely: ensuring effective legal regulation and public administration of migration processes, creation of conditions for unimpeded realization of rights, freedoms, legal interests of migrants and fulfillment of their statutory duties, strengthening social and legal protection of Ukrainian citizens who are or are working abroad, increasing the level of national security by preventing the emergence of nonconforming migration processes and elimination of their consequences. The current state and problems of the migration policy of Ukraine appeared a result of the imperfect strategy of the development of migration law in general and the absence of clear goals and principles of national migration and legal regulation. In the system of law of Ukraine, which is developing today under the influence of European integration processes, there are changes that significantly affect its structural division and affect the processes of formation of the categorical apparatus of legal science. The question arises about the effectiveness of Ukraine's migration policy and the regulatory and legal regulation of migration processes, which, in our opinion, require major changes, since the signing of the Association Agreement and visa-free regime between Ukraine and the European Union played a decisive role in the complicated demographic situation of the state.*

JEL Classifacation: K 23, O 38

Introduction

Over the past decades, migration has become a hallmark of the global problem of the present [1, p. 87], and currently the issue of regulation of migration processes in Ukraine is acute and relevant. For a long time, the mass media duplicated data on the number of Ukrainians as of January 1, 1993, reaching 52 million. But significant geopolitical changes, economic instability and conflict in the East of Ukraine have affected all aspects of the society's life, including migration processes. The proof of this is the official data of the State Statistics Service of Ukraine (SSU) about 42.3 million people who are Ukrainian citizens, without taking into account the annexed territory of the Autonomous Republic of Crimea and Sevastopol, that is, the natural decrease of population is more than 160 thousand people per year. In addition, it must not be forgotten to forget about the eastern regions of Ukraine, where the operation of the Joint Forces of the Armed Forces of Ukraine takes place, since it is impossible to make the exact census of persons living in the occupied territory of the Donbas and therefore the SSU is guided by preliminary data concerning the population of this region.

These events could not but touch on internal migration, as a result of which the Law of Ukraine "On the Protection of the Rights and Freedoms of Internally Displaced Persons" [2] was adopted on October 20, 2014, which was recognized by international human rights defenders as complying with international standards for the protection of the rights of internally displaced persons persons and regulates the form and procedure of obtaining relevant documents for obtaining the special status of internally displaced persons, but also defines their basic rights. At the same time, this legal act has a number of shortcomings and does not disclose the entire list of rights and obligations of internally displaced persons, as evidenced by constant changes and additions by the legislature. Typically, the legal regulation of migration processes in the country is carried out as a reaction to the negative effects that have already occurred due to the lack of appropriate government influence from the state. Forecasts remain disappointing, as state authorities in their reports emphasize the strengthening of migration processes, and labour migration is considered to be main reason of them, as it is about more than 3.2 million Ukrainians who are constantly working abroad, and about 9 million Ukrainian citizens, having seasonal ill-treatment in neighboring countries, the main of which are Poland and Russia. Despite these problems, in Ukraine today there is no consensus on the place in the system of right of migration law, there is no clear idea of the correlation of the state migration policy and the migration regime of Ukraine, there is an unsystematic migration law and there are significant problems in the field of law enforcement. Moreover, the solution of these problematic issues is possible only in the complex. That is, initially, it is possible to improve national legislationon the basis of a holistic theory of migration and migration policy; in turn, systematized migration legislation will have a positive impact both on the activities of authorized bodies and on the exercise of the rights and freedoms of individuals in this area.

1. Migration regime and modern migration policy of Ukraine

Taking the foregoing into consideration, the question remains as to the place of the notion of "migration regime" in the categorical apparatus of administrative law and its relation with such concepts as "migration law" and "state migration policy". After all, the concept of "migration law" and "state migration policy" are widely used both in scientific literature and in the current legislation, while the notion of "migration regime" is used in scientific literature and current legislation as an exception rather than a rule.

Based on the analysis of the ideas presented in the legal literature, one can conclude that two extremes are present in the research of social relations in the field of migration.

The first extreme is connected with the theorizing the problems of migration-right regulation, when the see problems of practical-applied nature. In the other words, it is about the attempts of some scholars to justify the need to allocate in the system of law of Ukraine such independent branch of law as a migration law, about artificial separation from constitutional or administrative legal relations, so-called migration legal relations, etc.

At the same time scientists sometimes do not notice their pernicious and devastating effects on the system of national law, since fragmentation of the law into smaller elements always leads to contradictions between them, and as a result, it can lead to the loss of its the main characteristic of the system of law of Ukraine - systemics. It should be acknowledged that in legal science repeatedly attempts have been made to develop the doctrine of the migration law of Ukraine, which would arm researchers with the necessary scientific methodology. However, we believe that attempts by scientists to improve migration policy and migration legislation in Ukraine by means of bringing the existence of such an independent branch of law as "migration law" is a way to go nowhere.

The second extreme in the research of migration processes in Ukraine is the analysis of empirical data in the field of migration without the application of general theoretical approaches. That is, when the conclusions and recommendations for improving the current migration law are made solely on the basis of statistical analysis without involving theoretical knowledge. Indeed, science, including the science of migration, is deadwithout practice, because science has arisen and exists to solve problems that arise in practice. At the same time, one should not forget that practice without science is blind, and therefore the development of migration legislation and improvement of the activities of subjects implementing the state migration policy is impossible without the development and systematization of scientific knowledge about migration, migration processes and migration relations. In our opinion, the concept of the migration regime as one of the types of administrative-legal regimes can become the theoretical basis that will give an impetus to the development of science in this area and will promote the effectiveness of both migration law and the quality of law enforcement activities of subjects of state migration policy.

When correlating the concepts of "state migration policy" and "migration regime" one should take intoaccount the fact that there are, firstly, different approaches to determining the priority of one concept in relation to another, and secondly, different approaches to the definition of "state migration policy »

For example, Tsekalova N. I. notes that one of the forms of implementation of state regulation in the migration field is migration policy, and state regulation of migration is ensured through legal regulation, submitted by the rules of migration law [3, p. 8]. There are more artistic definitions of migration policy that we consider to be inadmissible in scientific literature. For example, Bubliy M. P. describes the migration policy as a normative and legal reflection of the state's response to the spontaneous movement of people [4, p. 131-139]. That is, researchers consider migration policy only as a "form of implementation of migration-legal regulation" or as "a reflection of the legal-legal and institutional response of the state". In the writings of V. M. Snihur another position can be traced. He argues that: first, the main means of implementing the state migration policy is the migration regime; secondly, the migration regime itself is a kind of administrative-legal regimes of Ukraine; Thirdly, the migration regime is implemented through the administrative and legal

mechanism of ensuring the migration regime, which consists of a certain set of elements: 1) the system of legal acts, which is the basis of the functioning of this mechanism; 2) organizational and structural formation; 3) organizational and legal methods and methods that ensure the functioning of this mechanism [5].

V.M. Snihur proposed construction is also difficult to perceive, because on the one hand, the author asserts that the migration regime is a means of implementing the state migration policy, and, on the other hand, he states that the regime itself is implemented through a certain administrative-legal mechanism. So, in order to finally determine the priority of the concepts of "migration regime" and "state migration policy", it is necessary to refer to the clarification of the content of the state migration policy. If briefly (without citing the definitions) characterize the definitions of the state migration policy, which are presented in the legal literature, the following conclusions can be drawn:

- a part of scientists characterizes the state migration policy as "the state's influence on migration processes through their solution in a narrow and broad sense" (V.M.Moyseenko). What is the "broad and narrow regulation" of migration processes, unfortunately, this definition is noes not specify [6];

- a part of the scientists emphasizes the fact that the state migration policy is a system (a set of) measures carried out by the state or non-state institutions (Yvachniuk I. V, Kokorieva O.V., Olefir V.I., etc.) [7; 8; 9]. For example, V. I. Olefir argues that the state migration policy of Ukraine is a set of measures undertaken by the state to regulate migration processes, to create conditions for the implementation of the intellectual and labor potential of migrants, the construction of a democratic legal society, the provision of a proper social-economic and demographic development, the observance of the principles of national interests, security and territorial integrity of Ukraine [9, p. 452]. Unfortunately, this and other similar definitions do not focus on the list of measures that the state carries out in this area;

- the majority of scholars who study social relations in the field of migration determine the state migration policy through a list of measures that they consider to constitute its content (Malinovskaya O. A., Mosondz S. O., etc.) [10; 11]. For example, Mosondz S.O. defines the state migration policy as a complex of legal, financial, administrative and organizational measures, with the use of which the state deliberately influences the regulation of migration processes from the standpoint of migration priorities, the quantitative composition of migration flows and their structures in the field of public administration [11, with. 176]. These definitions of the state migration policy make it possible to consider legal regulation in the field of migration only as one of the directions of the state's activity. Therefore, we fully agree with the authors who define the migration regime (which, in our opinion, is a special legal regulation) as the most important means of realizing the state migration policy in Ukraine.

2. Objectives of migration policy and migration regime

The theme of the objectives of the migration regime is one of the problem and controversial in legal science. This is explained by the following factors.

Firstly, the low level of research as the objectives of migration policy in Ukraine, as well as the goals of national migration and legal regulation.

Secondly, our state and its population have not yetdetermined either with the strategy of their own development in general or with the strategic goal of migration policy in particular. Today, Ukraine spends a lot of money on educating anbrining up person (graduates of secondary schools, colleges, gymnasiums), a skilled and highly skilled specialist (bachelors, masters), but a large proportion of these young people are relocating to find work and life in other countries of the world. This is the result of not only failures in the economic development of Ukraine as a state, but also the short-sightedness of the country's migration policy over the past decades.

Thirdly, migratory law and migration law often operate on two concepts that are very interspersed with each other in the terms of content. This is the term "migration policy of the state" and "migration and legal regulation". It is clear that the state can not implement a policy without the use of such an effective means of influencing society the right, however, the right in its content always reflects the main components of state policy in a certain area of social relations. That is why scientific literature sometimes identifies the concepts of "the objectives of migration and legal regulation" and "the goals of the migration policy of the state" as well as the "principles of migration-legal regulation" and "principles of the state's migration policy" in the content of such concepts. Such identification can be regarded as a scientific and methodological error, but in the field of migration processes there is a close relationship between the goals and principles of state policy with the goals and principles of legal regulation.

That is, there is a need to clarify the question whether the objectives of the migration regime are solely for the purposes of migration legal regulation, or the objectives of the state migration policy can be attributed to such purposes. When characterizing the objectives of the migration regime it should be understood that it is not only about the presentation of one person or group of people about the future outcome that will come with effective legal regulation, but also about the goals of the state as a whole in a political form of organization of society. It is in this sense that we can speak about "the objectives of migration legal regulation" and "the goals of the migration policy of the state" as close to the content of the concept. Thus, we consider methodologically correct, the simultaneous coverage of the notion of "the purpose of the migration regime" in the two concepts "the objectives of migration legal regulation" and "the objectives of the migration policy of the state", because in our study research, their differentiation becomes practically impossible. In the course of the action and implementation of the rules of law, legal and non-legal objectives are resolved and satisfied. The latter, for example, include economic, political and other social goals. Right contributes to the achievement of such goals,not directly, but indirectly.

Therefore, right is not and should not be a means or a tool of economy, politics, ideology, etc [12, p. 65-70]. The objectives of legal regulation can be divided into close and finite, direct and indirect, and so on. But in general, in all cases, the goals of general legal regulation are: consolidation in the sources of the law of already existing social relations; stimulating the development of those social relations that already exist and meet the general interests of society; creation of conditions for the emergence and development of new forms of social relations; exclusion of socially dangerous relationships from the practice [13, p. 254]. All these goals are inherent in migration legal regulation as an integral part of the national law of Ukraine. Unfortunately, scientific literature on migration law does not pay attention to this issue at all. Only sometimes there are discussions about the goals of the state migration policy. At the same time, the majority of scholars who consider the issue of forming a state migration policy consider that the development of a competent migration policy of Ukraine is one of the priority tasks of our state (Malynovskaya O. A., Mosondz S. O., Olefir V. I. and etc.). It is in the framework of the state migration policy, in their opinion, the goals and principles of the state's migration policy should be envisaged. Thus, the policy should be aimed at protecting national interests, ensuring proper socio-economic, demographic, and scientific and educational development of the state.

V. I. Olefir proposedthe expanded system of the objectives of migration policy in his writings. The author refers to such goals: ensuring effective state management of migration processes; ensuring sustainable demographic and socio-economic development of the country; ensuring the strengthening of national security; Integration into the European migration policy; creation of conditions for unimpeded realization of rights, freedoms and legitimate interests of migrants; the implementation of migration control aimed at preventing and overcoming the existing negative consequences of migration processes and preventing the violations of these rights, freedoms and legal interests of migrants and citizens of Ukraine [14, c. 48]. Agreeing with most of the goals of the state migration policy proposed by V. I. Olefir, we consider that two of them are not specific in content:

a) Integration into a pan-European migration policy should not be an end in itself, since national interests of Ukraine may be affected. For example, for European countries, the fact that people with a high level of education and qualification come from Ukraine for permanent residence is positive. For Ukraine, this fact is negative, because the outflow of skilled labor, firstly, leads to the degradation of human capital and the economy of the country, and secondly, creates the conditions for each next generation to study and absorb skills from people with lower qualifications. As a result, the country loses productivity, competition falls, the economy closes on the production of goods with low added value. To get out of the situation, much more resources will be required than for thecreaton of conditions for talented people while they are still in the country [15].

b) creation of conditions for the unimpeded realization of the rights, freedoms and legitimate interests of migrants, in our opinion, is also a goal that is abstract in its content. In

countries of the world (and Ukraine is no exception) "legal standards" that are common to a certain group of countries and which are used in a certain area of public relations have long been discussed. For example, in administrative law, standards are being developed for the provision of administrative services in the light of similar European standards [16, p. 257-274]. Therefore, I am convinced that when defining the objectives of the migration regime, it is necessary to speak not about creation of "conditions", but about creation of "legal standards". For example, the purpose of Migration Policy proposed by V. I.Olefir can be defined as follows: "Establishing legal standards for the implementation of migrants who are legally in Ukraine, their rights, freedoms, legal interests and duties".

Snihur V.M. when describing such an element of administrative-legal regimes as the intended purpose of the regime, essentially allocates four goals:

1) to ensure interaction between the public administration and individuals. Thus, the scientist notes that the administrative-legal regime is established in order to ensure the interaction of public administration and individuals on the basis of law, because it accompanies the activities of public administration bodies and officials in their interaction with citizens and organizations, as well as between its links in the implementation of their own functional duties [17, p. 74];

2) to restrict arbitrariness by public administration bodies in applying administrative coercion measures by consolidating legal procedures for the exercise of their authority;

3) for the legitimate interference of state power structures in areas which are under special protection of the state. Such an objective of an administrative-legal regime exists, if people can not take care of their own safety and well-being;

4) for the application of special and special measures of influence in a certain territory and in relation to a specific object or object. This objective of the administrative-legal regime is due to the need for the existence of a special administrative-legal regulation in relation to a specific territory of the state, to a specific object or object [5, p. 18-19].

The first two objectives of the administrative-legal regimes proposed by V. M. Snihur are inherent not only in the relevant regimes but also in the administrative law as a whole. Therefore, we believe that it is impossible to consider them as goals that are inherent exclusively in the administrative-legal regimes. The last two objectives of the administrative-legal regimes proposed by V. N. Snihur are inherent in the special regimes, which are established for the application of special and special measures of influence in a certain territory, in relation to a particular object or object (for example, the regime in points of entry through the state border of Ukraine). Therefore, we believe that it is also impossible to consider them as general objectives that are inherent to all without exception to the administrative-legal regimes. Determination at the objectives of the migration regime in the normative legal acts of Ukraine would lead to the subjects of law-making activity in further directions of improvement of the migration legislation of Ukraine. At the legislative level, attempts were made to consolidate the objectives of migration policy.

So in A Art. 5 of the Draft Law of Ukraine of 23.03.2004 "On the Basic Principles of the State Migration Policy of Ukraine" stated that the purpose of the state migration policy is to overcome the negative effects of spontaneous migration processes, ensure effective management of migration processes, create conditions for sustainable demographic and socio-economic development country, the proper realization of rights, freedoms and duties by migrants, strengthening of national security of Ukraine [18]. Later Art. 3 of the draft Law of Ukraine of July 14, 2010 "On the main principles of the state migration policy of Ukraine" stated that the purpose of the state migration policy is to: 1) strengthening national security and advocate for Ukraine's national interests in the field of migration; 2) protection of the Ukrainian labor market; 3) overcoming the negative consequences of uncontrolled migration processes and ensuring effective state management of migration processes, sustainable demographic and socio-economic development of the country; 4) prevention of the occurrence of uncontrolled migration processes and the elimination of their consequences; 5) social and legal protection of Ukrainian citizens who work abroad; 6) creation of conditions for the implementation of migrants who are legally in the territory of Ukraine, their rights, freedoms, legitimate interests and duties [19].

Unfortunately, the goals of the state migration policy were not mentioned in the Concept of the State Migration Policy, which was approved by the decree of the President of Ukraine of May 30, 2011 [20] and it was to determine the directions, strategic tasks of the state migration policy of Ukraine, principles and priorities of state bodies in the field of migration, directions of improvement of its legislative and institutional provision, as well as mechanisms of implementation of the Concept. Taking into account the views of scientists on the objectives of the state migration policy, as well as the content of bills in the field of migration, the following list of objectives of the migration regimes can be proposed:

1) provision of effective mechanism for the construction of a system of public administration bodies in the field of migration. The creation of the State Migration Service in Ukraine partially solved the problem of branching the powers of migration in between different public authorities, but there are still many problems in this area that are related to the division of powers between officials in the middle of the state body and the quality of the exercise of authority. in relation to individuals;

2) the establishment of legal standards for the implementation of migrants who are legally in the territory of Ukraine, their rights, freedoms, legal interests and duties. This should be a certain standard of behavior (model) of both as public administration bodies and migrants in their relations. That is, there should not be different procedures for the exercise of their rights and responsibilitiesfor migrants who are equal in legal status, except when they choose another way of exercising their rights and responsibilities, which is also provided for by national legislation;

3) the establishment of legal standards for the social and legal protection of Ukrainian citizens who work abroad. It is impossible to stop the migration of skilled personnel, and therefore the state must adequately respond to the challenges associated with it, namely, to

create a legal basis for the social and legal protection of citizens who work abroad. A positive development in this area is the adoption of the Law of Ukraine "On Foreign Labor Migration" on November 5, 2015;

4) strengthening of national security and advocacy of Ukraine's national interests in the field of migration. Migration is a real or potential security challenge. In one way or another, it safety as a condition, and either it is consistent or not consistent with security as a goal [21, p. 98]. Uncontrolled processes in the field of migration are a real threat to the national security of Ukraine, as reflected in the Military Doctrine of Ukraine (paragraph 10);

5) protection of the Ukrainian labor market. First of all, there is a shortage of jobs and a high proportion of jobs with dangerous working conditions and low labor quality requirements, which is the result, including miscalculations in the migration policy of the state. In addition, the quality of supply of labor often does not meet the current requirements for its vocational education, labor and executive discipline, mobility and economic activity in general. The consequence of imbalances in labor supply with demand for it is the high unemployment rate, in particular hidden and partial [22];

6) overcoming the negative consequences of uncontrolled migration processes and ensuring sustainable demographic and socio-economic development of the country. The main indicators of the demographic crisis in the country are not only a reduction in the population, a decrease in the life expectancy, a decline in fertility, but also a negative balance of migration (more people than leave the country arrive in). In the country, the number of incapacitated persons is constantly growing in relation to the able-bodied population, which negatively affects the state's socio-economic policy. Todaythe state faces the problem of minimizing the negative consequences of uncontrolled migration processes;

7) prevention of the occurrence of uncontrolled migration processes and their consequences. Measures to prevent the occurrence of uncontrolled migration processes require from actors that implement state migration policy, coordinated work. Such coordinated work depends not only on the professionalism of managers, who are headed by the relevant authorities, but also on qualitative migration-legal regulation.

Thus, we can draw the following conclusion. The objectives of the migration regime are the final result sought by the actors of law-making activity, by laying down the relevant migration rules in the national legislation. In our opinion, the main goals of the modern migration regime should be: provision of an effective mechanism for building a system of public administration bodies in the field of migration; establishment of legal standards for the implementation by migrants who are legally in the territory of Ukraine, their rights, freedoms, legal interests and duties; establishment of legal standards of social and legal protection of Ukrainian citizens who work abroad; strengthening of national security and advocacy of Ukraine's national interests in the field of migration; protection of the Ukrainian labor market; overcoming the negative consequences of uncontrolled migration processes and ensuring sustainable demographic and socio-economic development of the country; preventing the occurrence of uncontrolled migration processes and eliminating their consequences.

3. Legal guarantees aimed at thesuppor of the migration regime in Ukraine

Almost all scholars who cover in their works the specifics of migration law in Ukraine are more or less affected by the issues of legal guarantees of the implementation of migration norms, guarantees of legality in the activities of migration authorities, legal guarantees for the exercise of the rights and freedoms of individuals. in the migration field. In this case, the definition of legal safeguards is not necessarily provided and their system is offered. For example, in the determination of the administrative and legal aspects of the state migration policy, Mosondz S.O. does not address the issues of legal guarantees in the field of migration law regulation, but much attention is devoted to issues of administrative responsibility for violation of migration legislation [11, p. 154-175].

The same can be said about the study of Saiva S. S., who, when disclosing the administrative legal aspects of legal regulation of migration and registration of individuals in Ukraine, does not address the issues of legal guarantees, but details the content of administrative coercion in counteracting violations of migration and registration rules, and also describes measures of administrative coercion that are applied in this area [23, p. 127-174]. At the same time, the previously expressed opinion on the necessity of determining the legal guarantees of the migration regime as structural elements of the migration regime requires some argumentation. But in order to formulate the definition of legal guarantees and to reveal their interrelation with other elements of the structure of the migration regime, it is necessary to distinguish the most significant features that will indicate their originality and certainty within the framework of the migration regime.

Firstly, the legal guarantees of the migration regime are created by the state and fixed in the norms of the current legislation of Ukraine. Moreover, these legal guarantees are not set by the migration law, as the administrative law. For example, the grounds and procedure for the removal of foreigners and stateless persons who are illegally in the territory of Ukraine are regulated by the norms of the Ukraine Administrative Offences Code (UAOC) and the Ukraine Administrative Legal Proceedings Code, the grounds and procedure for bringing persons to administrative liability for violating the requirements of migration law are stipulated by the norms Code of Ukraine on Administrative Offenses, grounds and procedure for the application of other measures of administrative coercion provided in such sources of administrative law as the Laws of Ukraine "On the State Border Guard Service of Ukraine", "On the National Police", "On the Security Service of Ukraine", and etc. This, in fact, indicates that the migration regime is a kind of administrative-legal regimes.

Secondly, the legal guarantees of the migration regime are aimed, first of all, at ensuring the proper functioning of the migration regime itself. For example, Snihur V.M. notes that administrative coercion, the institution of a complaint, administrative and jurisdictional proceedings are administrative-legal measures of the migration regime, which guarantee "the support of this regime in the given parameters" [5, p. 23]. Mykolenko O. I., points out that legal guarantees as an element of the structure of the legal regime

should be considered as a set of legal means protecting and maintaining the legal regime in the "given parameters" [62, p. 300]. That is, the description of the goals, principles, subject and method of migration legal regulation, as well as the legal status of subjects of migration relations, gives us only an idea of the so-called regulatory norms of migration law. Security standards are not inherent in migratory legislation, but are, as a rule, in the administrative. The concept of "migration regime" and the description of elements of its structure provide an opportunity to reveal not only the specifics of migration law in Ukraine, but also through the description of legal guarantees, which are enshrined in the administrative law, to disclose the specifics of the legal protection of sustainable migration and legal regulation.

Thirdly, the legal guarantees of the migration regime are a system of legal safeguards. The system of legal guarantees always depends on the legal category or legal phenomenon in relation to which such a system is created. For example, the system of legal guarantees regarding the implementation of migration rights by individuals will be significantly different from the system of legal guarantees, which ensure the efficiency of the activities of state authorities in the field of migration. In the legal literature among the elements of the system of legal guarantees the rules of law and principles of law and legal procedurescan be found, etc. For example, among administrative-procedural legal guarantees, Mykolenko O. I. allocates: 1) procedural rules that establish the rights and obligations of participants in the procedure; 2) the principles of the administrative procedure; 3) procedural institutes; 4) the administrative-procedural form; 5) the actions of participants in the administrative procedure; 6) the system of checking the legality and validity of the decisions; 7) a system of measures of procedural coercion and sanctions [24, p. 301-302]. That is, the list of legal safeguards in each particular case will depend on the purpose of their creation and scope. As it has already noted, the legal guarantees of the migration regime aimed, first of all, at ensuring the normal functioning of the migration regime itself, that is, the protection of the established migration and legal regulation. The law enforcement activity of authorized bodies is the sphere of their application. It is this approach that makes it possible to narrow the range of elements included in the system of legal guarantees of the migration regime.

Fourthly, the legal guarantees of the migration regime are a system of legal means, which consists of interdependent elements. For example, Snigur V.M. includes enforcement activities of executive bodies (including the use of state coercion), administrative and jurisdictional proceedings, judicial control over the activities of the administrative apparatus and the institute of administrative complaint to the guarantees of the migration regime [5, p. 23]. With this approach, you can only agree only in part. Law enforcement activity is one of the main forms of activity of public administration bodies. The existence of a public administration body without law enforcement activities cannot even be imagined. When it comes to legal safeguards, these are legal remedies that additionally help to function in a certain self-sufficient system. Migration and legal regulation can be implemented without legal guarantees of the migration regime, but subject to the law-abiding behavior of all

participants in the migration legal relationship. It is impossible to say this about law enforcement activities. Without law enforcement activities, public administration bodies generally lose meaning as subjects of migration legal relations, because law enforcement activities consist not only in the application of administrative coercive measures, but also in the provision of administrative services (issuance of a passport, registration at the place of residence, etc.). Also, some legal guarantees of the migration regime proposed by Snihur V.M. are duplicated in content, indicating that scientists use several criteria in determining the number of elements in the system of legal guarantees. For example, if such legal guarantees are issued as state coercion (which covers both administrative and jurisdictional activities that are implemented within the framework of proceedings on administrative offenses) and judicial control over the activities of the management apparatus (which is implemented within the framework of administrative proceedings) then why as an independent legal guarantee, to allocate administrative and jurisdictional proceedings, which include proceedings in cases of administrative offenses and administrative legal proceedings.

Among the general legal safeguards that ensure the implementation of the whole system of the law of Ukraine some scholars, called measures of legal coercion (control and supervision of the competent authorities, legal liability, etc.) and the institute of appeal in an administrative or judicial manner [24, p. 300]. This approach is considered most appropriate in determining the system of legal guarantees of the migration regime.

Among the measures, administrative and preventive measures, measures of administrative cessation and administrative penalties are allocatedas rule [23, p. 125-136]. Guided by this classification, among the measures of administrative coercion that ensure the functioning of the migration regime in Ukraine, should be allocated:

1) administrative and preventive measures - a set of means and methods of coercion, applicable to individuals in order to prevent possible violations. For example, today's police can use preventive measures, including for migrants: verification of a person's documents; poll of a person; Surface inspection and inspection; stopping a vehicle, etc. The administrative control measures include border control, which includes: 1) verification of documents; 2) review of persons, vehicles, goods; 3) verification of compliance by foreigners and stateless persons with the conditions for crossing the state border in case of entry into Ukraine, departure from Ukraine and transit through Ukraine; 4) the requirement to leave the place and restrictions on access to the specified territory; 5) restriction of movement of a person, vehicle or actual possession of a thing, etc.;

2) measures of administrative termination - a set of means and methods of coercive nature, which are used to terminate an offending offense already initiated and to prevent its possible harmful consequences, as well as to ensure the conduct of proceedings in an administrative dish. Traditionally, measures of administrative termination include the use of physical and special means. These are cessation measures, which on a general basis can be applied to all individual subjects of administrative law. If we describe the measures of

administrative cessation that are applied directly in the field of migration, one can distinguish administrative detention, which may be carried out by the Border Guard and the State Migration Service. Thus, the bodies of the frontier service can carry out administrative detention in the following cases: illegal crossing or attempt to cross the state border of Ukraine illegally; violation of the order of entry into and exit from the temporarily occupied territory of Ukraine; violations of the border regime, the regime at the points of entry through the state border of Ukraine or the regime rules at checkpoints of entry - exit; violation of the rules of residence of foreigners and stateless persons in Ukraine and transit through Ukraine. The officials of the State Migration Service of Ukraine have the right to apply administrative detention in violation of the legislation on staying in Ukraine of foreigners and stateless persons and transit through Ukraine (Article 262 of the UAOC).

We believe that administrative sanctions should include sanctions such as a compulsory return to the country of origin or the third country of foreigners and stateless persons who, contrary to the requirements (prohibitions) imposed in Ukraine, tried to enter Ukraine, and forced exodus outside Ukraine of foreigners and stateless persons who are illegally staying in Ukraine. The most thoroughly problematic issue of expulsion outside of Ukraine of foreigners and stateless persons was investigated in the works by of Palko V. I., who, before the advent of administrative justice in Ukraine, revealed the content of such an administrative sanction and suggested solutions to existing theoretical and practical problems in this area. The scientist argues that expulsion outside Ukraine, depending on the grounds for its application, can sometimes be regarded as an administrative and preventive measure (forced return), sometimes as a measure of termination (expulsion by a court decision in a certain period, but voluntarily), and in separate cases - as a measure of administrative punishment (deportation, that is, expulsion in a forced order) [25, p. 198-200]. Today, the current legislation has substantially changed both the grounds and the procedure for the enforcement of forced return and removal of foreigners and stateless persons beyond Ukraine. Although in Art. 24 of the UAOC there is still a provision that has nothing to do with the institute of administrative liability. Thus, the Ukraine Administrative Offences Codestipulates that the laws of Ukraine may provide for administrative deportation from abroad of foreigners and stateless persons for the commission of administrative offenses which grossly violate the rule of law. Regarding this provision, discussions have always been ongoing, since Art. 24 The UAOC provides for a system of administrative penalties that are imposed on persons who have committed administrative misconduct. The provisions concerning the expulsion of foreigners and stateless persons from Ukraine were given as a separate part, and therefore some scholars believed that expulsion was also an administrative penalty, while others stressed that expulsion was not an administrative penalty but related either to precautionary measures, or to measures of administrative termination [25, p. 13-30]. But the principle is that the Ukraine Administrative Offences Code does not provide for a mechanism for the implementation of this coercion measure.

The main sources of legislation that provide for a mechanism of the enforcement of forced return and the forced removal of foreigners and stateless persons are the Law of Ukraine "On the Legal Status of Foreigners and Stateless Persons" and the Ukraine Administrative Offences Code(UAOC). The analysis of these normative legal acts makes it possible to conclude that compulsory return and forced removal of foreigners and stateless persons should be considered as measures of administrative termination. Such a conclusion is due, above all, to the purposes of applying these coercive measures, and not to the implementation procedure or to the subjects who have the right to make decisions on compulsory return and expulsion.

For example, if characterizing the compulsory return of a foreigner or stateless person, the main purpose of its application is to stop the illegal crossing of the border and illegal entry into the territory of Ukraine of an alien or stateless person. As a rule, this measure is implemented (applied) directly at checkpoints across the state border of Ukraine. Foreigners and stateless persons who are not allowed to enter Ukraine when attempting to enter Ukraine at a border crossing point across Ukraine do not cross the state border of Ukraine, and in the shortest time they return to the state from which they arrived or in the state that issued the passport document. Although there are cases of forced return of a person who crossed the border outside the border crossing point (for example, gathering mushrooms in a forest and finding him self in the territory of a neighboring state). In this case, it is important that a foreigner and a stateless person has no intention and evidence of a criminal offense.

If we talk about the expulsion of foreigners and stateless persons beyond Ukraine, the main purpose of its application is to stop the illegal stay of foreigners and stateless persons on the territory of Ukraine.

3) administrative penalties - a set of administrative sanctions provided for by law that apply to persons who committed an administrative offense. Not all types of administrative penalties provided for in Art. 24 of the UAOC, apply to violators of migration law. Analysis of the articles of the Special Part of the Ukraine Administrative Offences Codegives the possibility to include such penalties:

- warning (for example, for a residence without a passport of a citizen of Ukraine or without registration of place of residence - Article 197 of UAOC);
- a fine (for example, for violation of the border regime, the regime at checkpoints across the state border of Ukraine or regime rules at checkpoints of entry-exit - Article 202 of the UAOC);
- administrative arrest (for example, for violating the order of entry into and exit from the temporarily occupied territory of Ukraine - Article 204-2 of the UAOC);
- confiscation of a vehicle (for example, for equipment owned by owners or drivers of vehicles in specially hidden or disguised places used for the transportation of illegal migrants - Part 2 of Article 206-1 of the UAOC).

The institute of appeals in administrative or judicial procedures, in our opinion, is also a legal guarantee of the migration regime of Ukraine. For example, the Constitution of Ukraine provides for the possibility for each person: 1) to challenge in court decisions, actions or inactivity of state authorities, local self-government bodies, officials and officers; 2) apply for the protection of their rights to the Commissioner of the Verkhovna Rada of Ukraine for Human Rights; 3) to submit a constitutional complaint to the Constitutional Court of Ukraine; 4) apply for the protection of their rights and freedoms after the use of all national remedies to the relevant international judicial institutions or relevant bodies of international organizations, the member or participant of which is Ukraine (Article 55). The Law of Ukraine "On Citizens' Appeal" dated October 2, 1996 No. 393/96 provides for a procedure for appealing actions of officials, state and public bodies in an administrative procedure. These standards apply equally to citizens of Ukraine, as well as to foreigners and stateless persons who are in Ukraine.

In Ukraine, there is an administrative and judicial appeal procedure which is also inherent in public relations in the field of migration.

For example, acts and omissions of officials and officers who violate the procedure and time limits for processing cases of citizenship and execution of decisions on issues of citizenship can be appealed in court and administrative procedure (Article 27 of the Law "On Citizenship of Ukraine") [26]. A person who is denied the crossing of the state border has the right to appeal the corresponding decision in an administrative procedure, that is, according to the Law of Ukraine "On Citizens' Appeal", or appeal this decision to a court in the procedure of administrative legal proceedings (Part 3 of Article 14 of the Law "On the Border control"). A foreigner and stateless person against whom a decision on compulsory return has been taken may appeal it to court (Part 4, Article 26 of the Law "On the Legal Status of Foreigners and Stateless Persons" [27].

Thus, we can conclude that the guarantees of the migration regime are characterized by the following features: they are created by the state and are enshrined in the norms of administrative law; they are aimed at ensuring the proper functioning of the migration regime itself; they are legal means of protection character; represent a system of legal means, which consists of interdependent elements.

Legal guarantees of the migration regime should include: 1) measures of administrative coercion (control activities of the competent authorities, expulsion outside Ukraine, administrative liability, etc.); 2) the institution of appeal in administrative or judicial proceedings (for example, decisions on the compulsory return of foreigners and stateless persons can be appealed to the administrative court). Thus, the legal guarantees of the migration regime are the means of direct provision, use, compliance, implementation and correct application of migration rules established by the administrative law, which promote the preservation of the migration regime and its functioning.

Conclusions

After the new policy of the state concerning the European integration of Ukrainian legislation, it became clear that the regulatory framework concerning migration problems is too outdated and has a number of shortcomings, but in modern scientific literature, more attention is paid to discussions on the separation of such a branch of law, such as migration law without taking into account the main problems. It is clear that Ukraine is experiencing the most difficult period of its independence, but it should not be forgotten that the correct policy of the state will be able to solve a number of important issues concerning the migration and migration processes of the state, first of all, it is necessary to define the goals set by the legislator. The cardinal decisions are needed to provide an effective mechanism for building a system of public administration bodies in the field of migration; establishment of legal standards for the implementation by migrants who are legally in the territory of Ukraine, their rights, freedoms, legal interests and duties; establishment of legal standards of social and legal protection of Ukrainian citizens who work abroad; strengthening of national security and advocacy of Ukraine's national interests in the field of migration; protection of the Ukrainian labor market; overcoming the negative consequences of uncontrolled migration processes and ensuring sustainable demographic and socio-economic development of the country; preventing the occurrence of uncontrolled migration processes and eliminating their consequences.

As regards the guarantees of the migration regime, it is clear that the Ukraine Administrative Offences Code, which needs to be changed in relation to actual problems, is the main act that regulates the provision, use, compliance, implementation and correct application of migration rules that promote the preservation of the migration regime and its functioning, which have arisen in society over the last years. But all attempts to implement administrative reform, unfortunately, remain unrealized.

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PROCEEDINGS IN CASES OF CUSTOMS RULES VIOLATION IN UKRAINE

Abstract. *In the present study, the elaboration of the place and role of proceedings in violation of customs rules proceeding in the structure of the administrative process has been further developed taking into account the latest scientific researches.The feachers characteristic of the proceedings in violation of customs rules has been improved. The legal nature of the compromise in violation of customs rules as a novel of sectoral legislation has been examined and the state of its implementation in practice on the basis of the analysis of statistical data on the activities of customs authorities has been determined. Attention has been drawn to problematic issues when deciding to conduct an additional audit based on the results of consideration of cases of this category on the merits. Proposals on reforming the customs legislation governing the implementation of proceedings in violation of customs rules have been formulated, in order to eliminate the shortcomings and gaps, which will enhance the protection of the rights and freedoms of citizens and economic interests of the state protected by law.*

JEL Classifacation: K13, K23, K42

Introduction

The general of Ukraine for the European direction of development of the economy and the state predetermines the need to implement a large number of reforms in the political, economic, social and other spheres.

For more than two decades of independence, the customs system, customs procedures and customs policy of Ukraine have evolved significantly. The adoption of the third Customs Code of Ukraine in 2012, is conditioned by the urgent need to bring sectoral legislation closer to international standards, to bring it in line with the requirements of the General Agreement on Tariffs and Trade, the International Convention on the Simplification and Harmonization of Customs Procedures, the Istanbul Convention on Temporary Importation and other acts of international law to which Ukraine has acceded.

The current Customs Code of Ukraine differs from the previous ones in the fact that it contains a number of progressive innovations in the implementation of customs procedures, including fixation of customs rules violations, proceedings in violation of customs rules, bringing to administrative responsibility, which, naturally, require scientific research.

An important means of ensuring the customs policy of the state remains the implementation by the customs authorities of a set of measures aimed at the timely detection of violations of the customs legislation of Ukraine and the fulfillment of international obligations in this area. Under such circumstances, the opening of proceedings in customs rules violations should be considered in the context of a positive result of customs control by authorized customs officials. Despite the fact that the procedure for carrying out proceedings in violation of customs rules, as well as the legal status of their subjects, are determined by a separate section of the Customs Code of Ukraine; the impact of the legislation of Ukraine on administrative offenses on these legal relations remains significant.

The relevance of the theoretical and legal study of proceedings in violation of customs rules in the modern period is due to the need, firstly, to conduct modern scientific and theoretical research in the field of customs and legal regulation of social relations; Secondly, it is necessary to perform the most complete settlement of the administrative and jurisdictional activities of the customs authorities in order to create a system of procedural legislation that would be aimed at implementing the constitutional provision on the priority protection of the rights and freedoms of citizens; Thirdly, there is a necessity to improve the organization and functioning of the State Fiscal Service of Ukraine, excluding the unacceptable arbitrariness and subjectivity of their officials in the process of bringing to administrative responsibility for violation of customs rules due to insufficient procedural regulation.

1. The concept of proceedings in cases of violation of customs rules and its place in the structure of the administrative process

Transformation of customs policy into an effective mechanism for protection of the economic interests of the state inevitably requires the creation of equally effective instruments of an appropriate control level. The implementation by the customs authorities of a set of measures aimed at the timely detection of Ukrainian customs rules violations and the fulfillment of international obligations in this area remains an important means for ensuring the customs policy of the state. Under these circumstances, the opening of proceedings in customs rules violation should be considered in the context of a positive result of customs control by authorized customs officials.

The customs authorities have been repeatedly reformed in the course of administrative reforms. By the Decree of the President of Ukraine of December 24, 2012 No. 726/2012, the Ministry of Incomes and Fees was formed in the course of reorganization the State Customs Service and the State Tax Service. Currently, in accordance with the Resolution of the Cabinet of Ministers of Ukraine dated May 21, 2014 No. 160, the Ministry of Revenues and Fees was reorganized by transformation into the State Fiscal Service.

Therefore, this study uses the terms "customs authority" and "State Fiscal Service" in the corresponding number and case.

Administrative and procedural activities of the customs authorities and their officials, the content of which is to solve the task of monitoring compliance with the legislation of Ukraine on customs matters, monitoring compliance with the rules for transferring currency values across the customs border of Ukraine, smuggling and customs regulations violation prevention, is one of most important aspects of the State Fiscal Service of Ukraine. This activity of the customs authorities is carried out not only by monitoring compliance with customs regulations, but also by implementing preventive, precautionary effects, the termination of offenses committed or prepared to be committed, as well as the application of relevant legal regulations in violation of certain customs regulations.

Regulatory settlement of administrative and procedural activities of customs authorities, aimed at solving problems, is normally carried out, within the framework of proceedings, which, in accordance with Article 486 of the Customs Code of Ukraine [1], is referred to as “Proceedings in violation of customs rules”. We share the position of those researchers who believe that the concept of "production" is one of the most important categories of the administrative process [2, p. 211] and has a purely theoretical value [3].

Proceedings in violation of customs rules is a complex legal phenomenon, which can be characterized in various links and relationships. It is clear that when formulating the concept of these proceedings, it is impossible not to take into account how the most studied type of administrative proceedings - the proceedings in administrative offenses - is determined in administrative procedure theory. As for the latter, the points of view are widespread, according to which the proceedings act either as an integral part of the administrative procedural law, or as the actual proceedings, which are formed by the system of procedural actions and procedural relations as a result of solving specific individual cases. Taking into account precisely these positions, we can analyze the proceedings in violation of customs rules. Considering the first point of view, the proceedings in violation of customs rules can be defined as an independent type of proceedings in administrative offenses and analyzed from the standpoint of the static purpose of its legal basis - the system of administrative procedural norms that form it. According to the second point of view, these norms are considered in the dynamics of their actual impact on public relations in the field of customs and legal regulation as a result of their implementation and practical application. In this sense, the proceedings on cases of violation of customs rules are characterized in action as a specific form of activity and relationships (relations) of various subjects, participants of there proceedings in specific tort legal relations [4, p. 187].

In the framework of ongoing proceedings in violation of customs regulations, customs authorities solve specific tasks of a jurisdictional nature. Their activity is regulated by the norms of the Customs Code of Ukraine, and in the part that is not regulated by it, in accordance with the legislation of Ukraine on administrative offenses.

The norms of the sectoral code, which is the Customs Code of Ukraine, have the main features inherent in procedural norms, regulating any procedural forms of activity: procedural nature, establishing the proceedings procedure, forms and methods of of proceedings participants'aktivities and bringing to justice; regulate relations developing in the process of combating various unlawful encroachments on the interests of an individual, society and the state; regulate the jurisdictional activities of the relevant state bodies and their officials related to the application of penalties to the perpetrators of the offense.

The norms of proceedings in customs offenses also have specific properties: they regulate the social relations in the field of public administration that are formed in the process of dealing with a specific type of offenses - customs offenses, are less dangerous than, for example, crimes; for the purpose of this struggle, they establish more simplified procedures than the criminal and civil procedure, the forms and methods of the customs authorities and their officials. The main function of the administrative and procedural standards of proceedings in cases of violation of customs rules is to regulate: a) the tasks and principles of proceedings; b) the procedural status of the parties to the proceedings, their functions and tasks; c) evidence in proceedings; d) measures of procedural influence and ensurance of proceedings; e) the procedure, time limits for initiating cases and sending them according to jurisdiction; e) the procedure and terms of consideration of the case; e) the procedure for appealing and appealing the decision; g) guarantees of the observance of legality and validity of the decisions taken and the proceedings performed; h) the order of execution of decisions; i) rules for reimbursement of expenses related to the performance of legal proceedings. Therefore it is expedient to note that the main purpose of the procedural norms of the proceedings being studied is to fully and comprehensively regulate the application of the substantive norms of the Customs Code of Ukraine on liability for customs offenses.

Taking the above into account, it can be stated that the proceedings in violation of customs regulations as an independent type of proceedings in administrative offenses is a system of procedural rules governing public relations, the procedure, forms and methods of jurisdictional activities of customs authorities and their officials and related to administrative responsibility for the violation of customs regulations.

We believe that the point of view about the need to study the proceedings in violation of customs rules as an independent type of proceedings in administrative offenses seems to be reasonable and tru and this should be reflected in the definition of the concept of this procedural phenomenon.

In this context, it requires clarification of the place of proceedings in violation of customs rules in the system of administrative procedure law. However, first of all, it is primarily necessary to understand what "procedural proceedings" and "process" mean and what the interconnection and interrelation between them is.

"Proceedings" and "process" in the sphere of legal regulation are purely legal concepts that objectively reflect the structure, degree of organization and delimitation of regulatory material between procedural phenomena within the same branch of law. It should be noted that these concepts have not oney narrow sectoral meaning, but also the general theoretical one. Therefore, their analysis and evaluation must be approached from the general theoretical position.

Without going into discussions on the definition of approaches to the formulation of the concept, content, essence and boundaries of the administrative process, it should only be noted that all views on the category of administrative process in the theory of administrative law were concentrated in the form of "jurisdictional" and "management" concepts [5, p. 158].

Supporters of the "jurisdictional" concept, on the one hand, identifying the administrative process with the jurisdictional proceedings, primarily with the proceedings in administrative violations, on the other hand, recognize the activities of executive bodies that do not belong to the administrative process [6, p. 11]. The set of views of administrators on the administrative process as a legal category, covering the activities of the executive bodies of law-making, law-enforcement and jurisdictional nature, forms the basis of the "managerial" concept [7, p. 13].

The adoption in due time of normative acts, the subject of legal regulation of which is the sphere of administrative-tort relations, stopped the discussion, which for a long time continued in the administrative-legal science about the relationship between the concepts of "administrative process" and "administrative proceedings".

In the modern theory of administrative law, the relationship between the concepts "process" and "proceedings" is defined as the ratio of the general and the particular. Proceedings is a type of process; a process is a combination of proceedings. At the same time, if the process is a broad concept that encompasses the legally significant activities of public administration, proceedings is already an activity associated with the solution of a certain, relatively narrow group of homogeneous cases. We agree with A.V. Kuzmenko's position, who believes that in the practice of application it is necessary to consistently and clearly distinguish between the concept of "process", "proceedings", "stage", as well as distinguish the use of these terms in the regulatory acts [2, p. 210].

The administrative proceedings, should be understood as the normatively regulated procedure for carrying out procedural actions that ensure the legal and objective consideration of individual administrative cases united by a common subject [8, p. 386]. A common point of view is that by administrative proceedings, we mean a part of the administrative process that unites a group of homogeneous procedural relations that differ in subject characteristics, for consideration and solution of which a certain procedure is established, which is completed by formalizing the results in relevant documents [9, p. 423].

Most scientists, distinguish administrative proceedings as a type of administrative process and recognize that the administrative process as a complex structural phenomenon encompasses various types of administrative proceedings. Each type of proceedings has specific features, due to the nature of specific cases solved with its help, peculiarities of the administrative-procedural relations arising in this process.

We share the position of M.Ya. Maslenikova, who notes that the procedural actions of law enforcement agencies on the application of all administrative coercive measures provided by law are not "inscribed" in one proceeding. In order to distinguish appropriate procedural actions in a separate proceeding, it is necessary to take into account not only the external "similarity" of these actions, but also the content and character , the specifics of such actions, peculiarity, atypicality compared with the usual procedural actions [10].

Administrative proceedings as part of an administrative process constitute a legal procedure for resolving homogeneous, individually specific cases. The structure of the administrative process, is built in accordance with various criteria, described by a large number of modifications, reflecting the series-parallel connection of proceedings. Essential for the inclusion of proceedings in the administrative process system is the simultaneous presence of at least two points: the recognition of the special nature of individual cases to be resolved and the secluded normative fixing of the procedure for resolving these cases.

Considering the above, we believe that issues related to the proceedings in customs offenses should be investigated in the context of the general administrative procedure theory. Consequently, the proceedings in violation of customs rules must be considered as a separate legal phenomenon in the system of administrative proceedings. The recognition of such a relationship between these processes is of great theoretical and practical importance. Firstly, the study is thus limited - not the entire volume of legal material, but only a part of it, is subject to analysis. Secondly, recognizing the dependence between "proceedings in violation of customs rules" and "administrative proceedings" has a certain value for the codification of procedural legislation - it is not necessary to codify the entire amount of administrative procedural norms, but only their specific part governing activities related to bringing to administrative responsibility for offenses in the field of customs. Thirdly, the recognition of this proceedings as a special type of administrative proceedings means that all those system features inherent in the latter are inherent in it.

Recognition of proceedings in violation of customs rules as a specific type of proceedings in administrative offenses, does not mean complete identification with the latter. This proceedings is an independent procedural phenomenon, which has specific features, characteristics and peculiarities that distinguishe it from other administrative proceedings. The main differences of proceedings in violation of customs rules relate primarily to the object of the offense, the characteristics of the subjects authorized to make state-power decisions in the case, and the content and nature of the individual stages and procedural actions of which the studied proceedings consist.

This idea is confirmed by the content of Article 487 of the Customs Code of Ukraine, which states that the proceedings in violation of customs rules are carried out in accordance with the Customs Code of Ukraine, and only in part, not regulated by them - in accordance with the legislation of Ukraine on administrative offenses. Thus, the place of proceedings in violation of customs rules in the hierarchical system of administrative process in general form can be represented as follows: "administrative process" - "administrative proceedings" - "proceedings in administrative offenses" - "proceedings in violation of customs rules". Taking into account the subject of the research, it is more relevant to find out the correlation between "proceedings in violation of customs rules" and "proceedings on cases of administrative offenses." Procedural norms contained in the Customs Code of Ukraine regulate the procedure for bringing to justice for customs offenses, and were defined by some scientist as “customs procedure” [11, p. 171]. At the same time, the analysis of their legal nature testifies to their administrative and procedural character, although they reflect the peculiarities of proceedings in violation of customs rules in comparison with other varieties of proceedings in violation of customs rules.

We fully agree with S.V. Kivalov’s position, who explains this state of legal regulation by the fact that proceedings in violation of customs rules are based on general principles stipulated by the Administrative Offenses Code of Ukraine and, finally, on principles of the administrative process [12, p. 81-82]. The legal norms contained in the Code of Ukraine on Administrative Offenses of Ukraine constitute the normative basis for administrative and procedural activity on bringing to responsibility for violation of customs rules. Undoubtedly, the idea of separating the proceedings in violation of customs rules into an independent type of administrative proceedings has the right for existence. After analyzing the current Customs Code of Ukraine, there is every reason to assert that there are a number of differences and peculiarities in the proceedings in violation of customs rules as compared with a more generalized type of administrative proceedings - proceedings in administrative offenses. For example, a different system of procedural action or measures to ensure the proceedings. At the same time, the differences existing in the proceedings in violation of customs rules only emphasize the universality of proceedings in administrative offenses. The implementation of jurisdictional activities by various executive bodies, including customs authorities, in accordance with administrative procedural principles leads to the unification of the procedure for bringing a guilty person to legal responsibility for administrative torts in various branches of public law. For a more complete picture of the content of the proceedings concept in violation of customs rules, it is expedient to consider the doctrinal definitions of this concept. So under the proceedings in violation of customs rules procedural actions, are implied which are carried out by officials of customs authorities, in the proceedings of which there is violation of customs rules, about which the relevant procedural documents are drawn up [13, p. 207]. However, this definition is rather one-sided, since the proceedings are identified in it only with the conduct of the procedural actions and do not include direct consideration, making the decision and its execution.

According to S.V.Kivalov, proceedings in violation of customs rules is a complex of interrelated and interdependent procedural actions aimed at timely, comprehensive and objective identification of the circumstances of each case, resolving it in strict accordance with the law, ensuring the execution of the decision, and identifying the causes and conditions, contributing to the commission of administrative offenses, the prevention of offenses, the education of citizens in the spirit of compliance with laws, consolidation of legality, which are carried out by specially authorized customs officials in order to perform the tasks of customs regulations protection [12, p. 100].

The authors of the textbook "Customs Law of Ukraine" define proceedings in violation of customs rules as a type of proceedings in administrative offenses, consisting of a series of consecutive actions of jurisdictional bodies, which, according to the norms of administrative and customs legislation, carry out activities aimed at bringing offenders to justice and ensuring the execution of the decision [14, p. 252].

We believe that the proceedings in violation of customs rules is a sub-type of proceedings in administrative offenses, which is carried out in accordance with the principles of the administrative process, taking into account the specifics of customs relations, regulated by the norms of administrative and customs law. The studied proceeding have all the features inherent in the proceedings in administrative offenses, as well as a number of specific features enshrined in the sectoral code - the Customs Code and other regulations, which provide a more complete and effective implementation of administrative responsibility in the field of customs and legal regulation of public relations.

Thus, taking the above into account, we can formulate the definition of proceedings in violation of customs rules, subordinate to the customs authorities of Ukraine. It is a complex of interrelated and interdependent procedural actions carried out by specially authorized customs officials, aimed at timely, comprehensive, complete and objective clarification of the circumstances of each case, resolving it in accordance with current legislation, ensuring the execution of the decision, identifying the causes and conditions, that facilitated customs offenses, taking measures to eliminate them, prevent wrongdoings, to strengthen law and order in the field of customs [15, p. 7].

2. Features of proceedings on cases of violation of customs rules

Being a type of proceedings in administrative offences, the proceedings in violation of customs regulations have certain features characteristic of them only .The availability of such features is stipulated both by the specificity of customs-tort legal relations (unlike the general proceedings), and by the reformation of national legislation in the customs sphere.

The adoption of the customs code of Ukraine in 2012 reflects the desire of the legislator to bring the current legislation of Ukraine closer to international standards. The formation of new institutions in the customs legislation, one of which is a compromise in violation of customs rules is particularly associated with it.

O. V. Burtseva had made proposals on the introduction of a "customs compromise" as a way to humanely and promptly resolve conflict situations in violation of customs rules even before the adoption of the Customs Code of Ukraine in 2012 [16, p. 36]. T. V. Ruda also considered a compromise as an element of improving the customs system in the economic aspect [17, p. 52-54]. Only the adoption of the Customs Code of Ukraine in 2012 brought the country's customs policy closer to European standards to a certain extent, in particular due to the humanization of responsibility for the offenses committed. The manifestation of the latter is not only the decriminalization of the sphere of responsibility for violation of customs rules, but also the prediction of the possibility of applying a settlement agreement between the offender and the customs authority before a decision is made on bringing him to justice. This became possible in connection with the emergence of the powers of the customs authorities stipulated by international customs acts.

Thus paragraphs 20-21 of the Special Annex H Section 1 of the International Convention on the Simplification and Harmonization of Customs Procedures give the customs authoritis a possibility of an administrative settlement of a customs offense, which is discovered by them and considered to be insignificant [18, p. 80].

The given international legal norm found its expression in part 1 of Article 521 of the Customs Code of Ukraine, according to which, in the absence of the sings of a criminal offence in actions of the person who committed the violation of customs rules, the proceedings in this offense can be terminated by compromise.

The compromise is in conclusion of a settlement agreement between the said person and the customs authority. Despite the fairly successful use of this tool by most European countries in the practice of their customs authorities, Ukraine provided for it in the Customs Code only in 2012. Thus, the content of Part 1 of Article 521 of the Customs Code of Ukraine affords an opportunity to exempt a person from administrative responsibility in case of termination of proceedings in violation of customs rules by compromise if there are no signs of a crime in the actions of the offender and subject to compliance with the relevant terms of the amicable agreement.

As indicated above, the legislator has determined that the sole condition for the commencement of the implementation of the mechanism for applying the compromise in the case of customs rules offence is the absence of signs of a criminal offense in the actions of the offender. The specified compromise is executed in the form of a settlement agreement. In the future, the fulfillment of the conditions of such a settlement agreement is the release of a person from administrative responsibility for violation of customs regulations. The provisions of part 4 of Article 521 of the Customs Code of Ukraine stipulate that the person who committed a violation of customs regulations appeals to the head of the customs authority with a request in an arbitrary form to terminate the case of this violation of customs regulations by compromise. However, the legislator does not determine the period during which the offender must make such a statement.

Obviously, it can not be unlimited, since such an appeal to the head of the customs authority after the completion of the consideration of the case will not have any legal consequences. Further, the time period during which such a statement must be coordinated remains undefined. At the same time, the provisions of part 4 of Article 521 of the Customs Code of Ukraine indicate that within one working day following the day of filing the application, the customs authority provides the applicant with a reasoned answer about the grounds for not applying the compromise procedure in the absence of legal reasons for terminating the case of customs rules violation by compromise. However, what should be done if there are no legal grounds for termination of a case in violation of customs rules by means of a compromise, and the customs authority missed the term specified by the legislator to make a decision of refusal to apply the compromise procedure? Does a person who has committed a violation of customs regulations have the right to consider this to be the tacit consent of the customs authority to conclude a settlement agreement and appeal against the actions of the officials of the said authority in administrative proceedings in the event of further failure to conclude? Taking ito account the relevance of the compromise procedure in the conditions, these issues, undoubtedly, should be subject to a detailed legislative settlement.

In turn, it is reasonable to agree with Duzhenko S.A., who proposed to lay out part 4 of Article 521 of the Customs Code of Ukraine in the new edition with the purpose of proper legislative regulation and avoidance of disputes in the course of practical application of the above-mentioned novel of the customs legislation. This edition has the following content: "4. An individual who committed a violation of customs regulations, has the right, to appeal to the head of the customs authority with an application in arbitrary shape asking to terminate the case in violation of customs regulations by compromise prior to forwarding this case for consideration on the merits [19, p. 9]. The process of filing such an application is recorded in the manner specified in parts three and four of Article 264 of this Code. Such an application is subject to consideration within one working day following the day of its submission. According to the results of this consideration the head of the customs authority decides on the conclusion of a settlement agreement or, in the absence of legal grounds for the termination of a case in violation of customs rules by means of a compromise, provides the applicant with a reasoned answer about the reasons for the impossibility of its use. "

Under the terms of the settlement agreement, a person who committed a violation of customs rules, must deposit funds in the state budget in an amount equal to the amount of the fine provided for by the sanction of the relevant article of the Customs Code of Ukraine within a certain period, which can not exceed 30 days, and / or declare goods in favor of the state in refusel customs regime – particular objects of customs rules violation, and in appropriate cases also goods with specially made storages (caches) that were used for concealing particular objects of customs rules violation from the customs control, vehicles that were used to move the particular objects of customs rules violation across the customs border of Ukraine. At the same time, in the requirements of part 3 of article 521 of the Customs Code of Ukraine, the legislator provides that goods, vehicles can be subject to a

settlement agreement only under the condition that the person who committed the violation of customs regulations is the owner of these goods, vehicles or is authorized to dispose of them.

After the offender has fulfilled the above conditions, the relevant customs authority is obliged to terminate the proceedings in the case of customs regulations violaion in respect of this person and to carry out customs clearance of the goods declared by him in accordance with the declared customs regime. However, the provisions of Part 6 of Article 521 of the Customs Code of Ukraine stipulate that the settlement agreement is considered invalid and the proceedings in violation of customs regulations shall be resumed if the person who committed the violation of customs regulations fails to comply with the actions specified in part 2 of Article 521 of the Customs Code of Ukraine in the period defined by the settlement, which may not exceed 30 days.

A model Settlement Agreement on the termination of proceedings on the case of violation of customs regulations with relevant annexes was approved by the order, the Ministry of Finance of Ukraine dated May 28, 2012 No. 607 in pursuance of the provisions of Part 5 of Article 521 of the Customs Code of Ukraine and in order to minimize discrepancies in the clearance of customs agreements [20].

The study of the content of the specified Model Settlement Agreement has established that it contains a condition that is not provided for by the Customs Code of Ukraine. The matter concerns the obligations of the person who committed a violation of customs regulations, to reimburse the costs of storing goods, vehicles in the event of their issuance from the warehouse of the customs authority. At the same time, the fulfillment of this condition is not specified in the act on the implementation of the settlement agreement, which is Annex 1 to the Model Settlement Agreement approved by the Ministry of Finance of Ukraine. Considering the above, the question remains open whether this condition is obligatory? In this case, in order to resolve this issue, it appears appropriate to apply the requirements of Article 19 of the Constitution of Ukraine, which stipulates that the legal order in Ukraine is based on the principles according to which no one can be forced to do something that is not provided for by law. State authorities and local governments, their officials are obliged to act only on the basis of, within the limits of authority and in the manner stipulated by the Constitution and laws of Ukraine. Under such circumstances, if the expediency of reimbursement of expenses for storage of goods, vehicles in the case of their issuance from the warehouse of the customs authority, is justified, this should be fixed at the legislative level in the Customs Code of Ukraine.

The application of the compromise procedure in cases of customs rules violation, undoubtedly, has positive consequences for the state as a whole, including the customs authorities, and for the person who has committed an offense in the customs sphere.Subject to the conclusion of a settlement agreement, the customs authorities receive an undeniable confession of the offender's guilt in committing customs rules volation and are deprived of

the need to continue proceedings in such a case, and the state gets revenues to the budget without the use of coercive measures, due to the activities of executive agencies.

The compromise has positive aspects for the offender too, because it simplifies the procedure of customs clearance to a certain extent. However, since the declarant in any case contributes funds to the state budget in an amount equal to the amount of the fine provided for by the sanction of the relevant article of this Code, such a compromise is only formal on the customs authorities'part, since it is carried out without "recording" the relevant violations, however is connected wsth the onset of the consequences of a legal nature for their commission. The most positive consequence of the compromise procedure for a person who committed a violation of customs rules should be considered the possibility of applying the provisions of paragraph 8 of Article 521 of the Customs Code of Ukraine, according to which in case of termination of proceedings in the violation of customs rules by compromise, the person who committed this offense is not considered brought to administrative responsibility. This allows a person who has committed a violation of customs rules to avoid in the future, such a qualifying sign of a similar violation as repetition. Obviously, the sanction for a repeated offense is more severe.

For example, obstructing a customs officer in carrying out customs control or smuggling proceedings or violating customs rules in access to goods, vehicles, documents, is punishable by a fine of one hundred non-taxable minimum incomes of citizens (Section 1 of Article 474 of the Customs Code of Ukraine). At the same time, the amount of the fine for committing the offense provided for by paragraph 1 of Article 474 by a person who has brought to responsibility for the commission of such an offense during the year entails the imposition of a fine five times more, i.e. five hundred non-taxable minimum incomes of citizens (part 2 of 474 Customs Ukraine). Despite the fact that only 5 types of offenses in the customs sphere have such a qualifying attribute as repetition, the application of the provisions of Part 8 of Article 521 of the Customs Code of Ukraine may result in the abuse of persons who intend to systematically violate customs rules using their right of entering into an amicable settlement in order to avoid a more severe punishment in the future.

In order to prevent such facts, it would be expedient to provide at the legislative level that the person who committed a violation of customs rules and entered into a settlement agreement with the customs authority previously is not entitled to the subsequent application of the compromise procedure within one year from the date of signing the act of implementing such an agreement. At the same time, it is necessary to create an appropriate electronic register containing information about the offender, information on the type of offense committed, the good faith of the amicable agreement, terms fulfillment and the like in order to keep record of the who have committed a violation of customs rules.

This will ensure that persons who have committed a violation of customs regulations at least once will continue to comply with the requirements of customs legislation in the future, and the state will receive significantly more payments to the budget due to a larger amount of penalties in the event of repeated violation of customs regulations by the same person.

The possibility for an authorized person to issue a decision on conducting an additional audit based on the results of the resolution of the case is a feature of the proceedings in violation of customs rules in comparison with the proceedings on cases of administrative offenses. Making a decision to conduct additional verification should not be identified with the return of the case for its proper execution, which can be used in the implementation of proceedings in administrative offenses. These procedures differ not only in form and content, but are also applied at various stages of the resolution of a case.

According to Part 2 of Article 527 of the Customs Code of Ukraine, the resolution on carrying out an additional audit should contain specific subjects, tasks and deadlines for the inspection. At the same time, such actions should not violate the rights of a citizen, harm the economic activities of a legal entity. The resolution is adopted on the basis of the case consideration results in the event of detection of flaws in the submitted materials, which make it impossible to carry out its correct and objective consideration, in particular due to improper collection of evidence. However, the decision to return the case for proper processing may be the result of violations in the direction of the case file to the body authorized to consider it. Such a decision can be made only at the stage of preparing the case for consideration. It is worth noting that the practice of returning a case is fairly common, although it is not fixed at the legislative level.

The issuance of this decision allows to obtain the evidence necessary for the proper resolution of the case, as well as to ensure the elimination of deficiencies that have arisen in the first stage of proceedings. On the one hand, this contributes to the implementation of the principle of objective truth, on the other hand, it can create artificial barriers to the administration of justice, since the legislator has not established restrictions on the number of orders for additional verification. Researchers of cases in violation of customs rules, noting the positiveness of this novel, simultaneously indicate a certain uncertainty during its application. However, such problems are only theoretical in nature, because in practice they do not arise when issuing an order for additional verification. Firstly, the aforementioned ruling should not be considered as an interim result of the resolution of the case. According to the content of Part 1 of Article 527 of the Customs Code of Ukraine, making such an order is one of the types of completion of consideration of the case of violation of customs regulations. This decision is the result of customs officials'actions assessment regarding the quality and completeness of the collection of evidence necessary for the correct and objective resolution of the case. Obviously, such an assessment is negative, since after the adoption of such a decision in the case of violation of customs rules, the materials must be returned to the customs authority for revision. Secondly, the decision to conduct an additional audit should take place in the timeframe established by Article 525 of the Customs Code of Ukraine. At the same time, since its adoption, the consideration of the case is considered fully completed, since the legislator does not provide for the suspension or termination of such consideration at all.

It is absolutely obvious that the customs authority must carry out the tasks specified in the resolution within the deadline set thereby, and then return the case for further consideration to the jurisdictional authority. Under such circumstances, the authority that issues such a resolution must take into account that the additional verification must be implemented within a time limit which will provide the possibility of imposing an administrative penalty in the event that a guilty person is found guilty during the further resolution of the case.In accordance with the provisions of Article 467 of the Customs Code of Ukraine, such a period shall not exceed 6 months from the date of the commission / detection of the offense. Thirdly, the decision to conduct an additional audit in its content should not contain an assessment of the evidence established during the first stage, but only to fix their presence. The issuance of such a decision contributes to the goal of a complete, comprehensive and objective resolution of the case.

Therefore, it can be stated that the adoption of this decision indicates the absence of grounds for issuing a decision to discontinue the proceedings until the establishment of the fact of the presence or absence of certain circumstances. It should be noted that the decision to conduct additional verification differs significantly in its legal nature from the decisions to impose an administrative penalty and to discontinue the proceedings, since it has distinctive consequences and goals. There are well-founded questions on the number of orders for additional inspections that may be made in the course of consideration of a case in violation of customs rules. It is indisputable that, customs officials will perform the tasks specified in such a decree, in a proper manner and within the required period with good faith and proper attitude to their duties after which the authorized body will be able to consider the case. At the same time, there may be other cases where such instructions are not executed either due to the expiration of the established period, or due to the negligence of customs officials. According to the effective case law, in such circumstances, the decision is made to conduct an additional audit. This has certain grounds, because the adoption of any other decision will contradict the principle of objective truth, since there are no additional circumstances compared with the first decree on conducting an additional audit.

In modern legislation, there are no restrictions on the number of orders for additional checks that may be made during the consideration of a case in violation of customs regulations. The only indirect limitation on the number of such orders, which follows from the content of the customs legislation, is only the timing of bringing to administrative responsibility. The ruling on the conduct of additional verification, even under the condition of improper execution of previous similar rulings, loses its meaning after their expiration. In this case, the body considering the case in violation of customs regulations, makes a decision to close the proceedings. It appears well-grounded that this deficiency should be eliminated at the legislative level by supplementing Article 527 of the Customs Code of Ukraine with parts 3 and 4 of the following content: "3.

The period for conducting an additional check can be extended by an official of the customs body or the court (judge) who issued it, with the availability of a written request of an authorized customs body person conducting the proceedings in violation of customs regulations, for no more than 10 working days by issuing a relevant resolution.

In the event of improper execution or non-execution of the resolution on the conduct of an additional inspection, the body considering the case in violation of customs regulations shall issue a resolution on termination of the proceedings. The court (judge) simultaneously with the decision to terminate the proceedings makes a separate decision on the basis of this part of Article 527 of this Code, which draws the attention of relevant officials to the facts of violation of the law in the implementation of the proceedings. No later than within a month's timeframe, measures must be taken according to this separate decision and the results must be reported to the court that issued it. The need to make a decision to discontinue the proceedings in the case of not fulfilling the tasks defined by the order to conduct an additional inspection, taking into account the extension of the period for its implementation, is stipulated by the norms of part 3, Article 62 of the Ukrainian Constitution, since the doubts concerning the proof of the person's guilt are interpreted to his favour. Repeatedly issuing orders to conduct an additional inspection or to extend the period for its implementation will lead to a violation of the principles of proceedings in violation of customs regulations.

The mentioned above additions are designed to promote high-quality implementation of proceedings in violation of customs regulations, in particular during additional inspections, and to stop discussions among scholars about the imperfection of legislative regulation of issues regarding the issuance of an order to conduct additional inspections.

Conclusions.

The study deals with the concept and place of proceedings in cases of violation of customs rules in the structure of the administrative process, as well as their features, which are caused both by the specificity of customs and tort relations and by reforming the national legislation in the customs sphere.

It was established that the proceedings in violation of customs rules have all the features inherent in the proceedings in administrative offenses, and a number of features of a procedural nature, which allow increasing the efficiency of law enforcement activities of customs bodies, to ensure the full and maximum implementation of administrative responsibility in the field of customs and legal regulation of public relations.

The development of customs legislation leads to the appearance of a novel, which was not previously characteristic of the proceedings in violation of customs rules e.i. the introduction of the institution of compromise. The compromise in the case of violation of customs rules is the possibility of exempting a person from administrative responsibility by terminating such proceedings if there are no signs of a crime in the actions of the offender

and taking into account the compliance with the terms of the amicable agreement. Considering that the compromise as an institution is new to the customs legislation, it requires detailed legal regulation of the following issues: the timeframe for consideration by an official of the customs body of a person's application for termination of proceedings by means of a compromise; the prevention of abuse of the offender's right to enter into a settlement agreement; the steady implementation of the terms of such an agreement, defined in the standard form approved by the Order of the Ministry of Finance of Ukraine, but not provided for by the Customs Code of Ukraine.

No less important feature of the proceedings in violation of customs rules is the decision of the authorized person to conduct an additional inspection on the results of the case, which should not be identified with the return of the case for its proper execution, since such a decision is of the type, which is taken according to the results the case resolution and is intended to provide additional evidence of a person's guiet in committing a violation of customs regulations.

The rusults of the study proved that the legal regulation of the implementation of proceedings in violation of customs regulations is currently at a high level, however it still requires legislative changes, which is a necessary condition for the introduction of European standards in this area.

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ANOMALIES OF LEGAL CONSCIOUSNESS

Abstract. *The author conducted a comprehensive study such a phenomenon of anomalies legal sphere, as anomalies of legal consciousness, since in the regulation of social relations, legal consciousness plays a big role and influences legal behavior personality, on her valuable attitude to law, legal norms and institutions. What would be legal ideas and innovations didn't exist in society, they always go through comprehension different people through them justice. It is considered that there is a general consciousness in general and what factors contribute to the emergence of anomalies of legal consciousness, that is, the deformation of the legal consciousness of individuals, the distortion of the attitude to law and legal practice, distortion of value orientation regarding legally meaningful behavior. A classification of legal anomalies is made. Attention is drawn to such a concept, as "Rebirth" of legal consciousness. A variety of legal anomalies are legal anomalies in legal consciousness as a product of social relations, which are caused by a large number of factors of objective and subjective order, preconditions, reasons, etc., which deform a person's legal consciousness, which can lead to undesirable behaviors for society, deviating from law, general law, normal formation and development of social relations. Like anomalies in law, this kind of anomalies has a large number of manifestations, but also not as an offense, which has a completely different legal nature.*

JEL Classifacation: K10, K40

Introduction

It is considered that there is the deformation of the legal consciousness (from the *Latin* deformation - distortion) is the cause of destructive phenomena and radical changes that take place today in the legal, socio-economic, political, socio-cultural and spiritual spheres of our country, "objectively generate new ideological and methodological settings aimed at on the need to analyze in a new way our spiritual and philosophical heritage". M. Charkas notes that deformation justice is it negative social a phenomenon for which inherent such changes him I will become which is wrong reflect real public and personal legal validity and express negative attitude to the current one systems of law, legality and law and order in general.

However, deformation legal consciousness in the transitional period development societies arise as a result inconsistency needs and interest's Valuable orientations and installations, norms and traditions conscious and legal images of subjects legal relations.

Therefore, the danger of the spread of deformations of legal consciousness lies, first of all, in the fact that they affect the spiritual, moral, cultural foundations of social life.

1. Concept of consciousness, legal consciousness

Moral and legal values become amorphous, lose their adequacy to universal human ideals. The most catastrophic consequences are the spread of deformations of justice among public authorities. Here, the destruction of moral values leads to the spread of anti-social phenomena, including corruption, stagnation and the destruction of society. This opinion is supported by other scholars. In particular, T. Vasilieva notes that "public consciousness has undergone deformations, which are intensifying and modifying today due to the deep infliction of corruption in all spheres of society, violations of the law (including the main law of the country), lack of a clear and systematic legislative framework. The rigid and often unethical political competition puts the institutions of the state, parliamentary, the president, the judiciary, the prosecutor's office and law-enforcement bodies in a sacramental paternalistic mass consciousness. More and more, there is a gap between the declared norms and their actual application. The use of the right is reduced only to the skill and ability to submit it in a lucrative light. All this generates social depression, apathy and cynicism that destroy the entire society, since the development and prosperity of the rule of law are impossible without a high level of citizens' legal awareness, regardless of their social status ".

For a more complete understanding of the essence of the deformation of legal consciousness, it is necessary, first of all, to clarify the concept of the most sense of justice. A complex of problems associated with changes, both in social development itself and in the processes of comprehension of justice, creates a situation of special relevance of this topic. Consciousness as one of the forms of social consciousness, by its very nature is complex and multivariate, has its own meaning and the logic of development, so its research requires a comprehensive, multidisciplinary approach. Thus, V. Kartashov emphasizes the multifaceted study of justice, which, in his opinion, is due to the fact that the process of legal awareness of reality is immensely complex and encompasses social and national, emotional and rational, axiological and other aspects. In addition, justice constitutes an integral part, an ideal, internal determinant of any legal activity. And, finally, it contains huge enormous orientation and regulatory resources that allow most people to behave law-abidingly, lawfully and righteously in the absence of specific legal requirements. Therefore, according to V. Kartashov, a complex and integrative approach to the legal consciousness, which includes historical and linguistic, anthropological and neurophysiological, ethnographic and pedagogical, ethical and cultural, legal and other substantiations, is needed. Only such a methodology will show the role of justice in the spiritual sphere of life of society, reveal the socio-psychological and ideological mechanisms for the determination of legally significant behavior.

Therefore, in the study of such a complex and multifaceted phenomenon as human consciousness, one must rely on the work of scientists of other sciences, in particular psychology, including law psychology, philosophy, sociology and other socio-humanities. After all, most of the problems of legal consciousness as an individual, and social groups and society as a whole, can be studied only at the intersection of various sciences.

Thus, legal psychology examines the psychological features of the reflection of phenomena in the consciousness of society, social groups and individuals. It explores the internationalization of the values of individuals that have legal significance, the socio-psychological aspects of law-making, the laws of legal socialization, the formation and functioning of justice, and so on. In psychology, consciousness is seen as a form of reflection of reality, but it is not just a mirror that copies the environment, but a generalized, subjective model of the surrounding world. Therefore, from the point of view of psychology, legal awareness is a set of redefined knowledge of the legal environment, an emotional attitude towards it, which, together with the memory of the past and ideas about the future, form the goals of the individual.

According to L. Yasyukova , understanding the psychological essence of justice contribute to the following provisions: firstly, legal consciousness is part of everyday consciousness, since its formation takes place more spontaneously, its internal structure may be contradictory, it may include not only rational, but also emotional components; and secondly, the legal consciousness is based on moral and ethical settings, but not limited to them and is a very specific entity, the study of its psychological content should not be limited to the value of the ethical approach . Legal psychology adds that the personal attitude to rights and responsibilities is a manifestation of the degree of assimilation of the social, that is expressed in the nature of the decisions taken, in the motives, in the methods and means of implementing the legal norms. Thus, assessing the level of the formation of justice, we can speak about the degree of readiness of the individual to comply with legal norms and requirements. Consciousness as a sociological category also takes into account psychological aspects, because the state of legal consciousness is a connecting link between consciousness as a process of reflection of social reality and practical activity of people in the field of law. Emotional attitude to legal norms (approval, rejection, anger) has a significant impact on the motivation for violating or complying with the law.

Within the philosophical approach of perception of the rights of individuals is also considered taking into account mental attitudes, emotional experiences, conscience. In order for a rule to be effective, one must be convinced in the mind that, according to the rule expressed in it, not one person must act, but anyone for whom this rule is required for one reason or another reasons are necessary. An interesting philosophical approach to the phenomenon of interest to us is I. Malinov, who represents the consciousness at the level of mentality, in particular, such a part that establishes norms of good and evil, justice, moral duty, compromise between oneself and others. It is noteworthy that the scientist builds his definition of legal mentality in terms of hermeneutic theory. The latter category qualifies as "the aggregate characteristic of individual intentions, value orientations, semantic aberrations and types of discourse in the field of law". However, hermeneutic optics focuses on the researcher's emotional and spiritual constitution of the social subject (social group, society as a whole), the integrity and peculiarity of which are determined by the cultural codes that set the fundamental rules of objectification of human content in the substantive forms of law.

According to the author, in the aspect of hermeneutics, the legal mentality absorbs the legal consciousness into its particular quality - "in terms of its orientation, selectivity, mood, bias, and also cultural specificity." In other words, in the legal mentality emerging content-generating vectors, the establishment and direction of the development of legal consciousness, which takes its final image under the influence of socio-cultural conditions.

Interest in this phenomenon as a legal precondition, first of all, the understanding that legal awareness directly influences the state of law, law and order in the state, produces a peculiar culture of citizens whose ideological basis is the moral, spiritual and legal values of the nation. Legal values are a system of legal knowledge, views, legal setting and value orientations, which act as criteria for evaluating real-life phenomena and processes. That is why legal awareness is viewed in the civilization dimension and in the context of the axiology of universal values. The advantage of the axiological (value) approach is the value interpretation of the concept of law, the legal culture, which is presented in the form of progressive advances in the technique of law-making and law-making, democratic and humanistic ideas of legal development, etc. Legal values serve as criteria for assessing existing legal phenomena and processes. Personality, mastering these values, makes them the motives of their legal behavior, embodying real legal validity. Thus, "the legal values of the individual are a kind of" bridge "from the right to the right of existence, from the right to the right to the real." Y.Oborotov points out that "the law is the source of the freedom of a person entering into a particular social community," "with the help of law, the contradiction between personal freedom and the common good is resolved" that "legal values exist for society and the individual in the form of" ready-made formulas "that orient him in social life, influencing the choice of a variant of behavior in the sphere of law".

According to Yu Kalinovsky, the legal consciousness of society combines itself as an axiological dimension (dominant legal values for a particular type of society), yes and ontological dimension - the ways and forms of being of legal consciousness in concrete historical conditions. Consciousness is based on the communicative and valuable background, which was formed in one or another society and represents a solid idea of good and evil, fair and unfair, permitted and unauthorized, traditional and unconventional. Legal consciousness is a complex structural formation, which contains certain elements (components), the quality and quantity of which is interpreted differently by the authors ambiguously. Representing legal consciousness in the form of a system. Different authors of the elements of such a system consider: "legal ideology (scientific expression of legal views, principles, requirements of society, various social groups and strata of the population) and legal psychology (a set of legal feelings, values, moods, wishes and experiences, characteristic of the whole society in whole or specific social group) "; "Rational, emotional, informational, evaluative and volitional elements" "rational-ideological, emotional -psychological, behavioral elements.

The most expanded system of elements and criteria for their structuring leads S. Yeremeev. Thus, in terms of the depth of reflection they stand out: a) ordinary legal consciousness - as a rule, is of an empirical nature, the source of origin and development is the human experience of life, the main task is to provide daily understanding and assessment of events in accordance with emerging needs; b) the theoretical legal consciousness poses a task to understand the essence of the phenomenon in the general theoretical, conceptual relation; according to the breadth of distribution (bearers of legal consciousness): a) mass legal consciousness of society; b) specialized (legal consciousness of groups); c) local (the legal consciousness of individuals); on the functional structure of justice: a) cognitive function; b) an estimated function; c) regulatory function; content structure: a) rational component (views, ideas, ideas about the right); b) everyday component (setting on a certain behavior, willingness to act in a certain way).

According to A. Skok, all elements of justice, are relatively independent and, at the same time interconnected, forming a specific integrity - legal consciousness. Thus, according to A. Skok, legal consciousness is a combination of legal representations, feelings, beliefs, assessments expressing the attitude of a person or a social group and society to the right, to the behavior of people in the field of legal regulation.

Yu. Petronchak , emphasizing that for the construction of a general definition, and not a descriptive characteristic of legal consciousness, it is expedient to direct research efforts not on the expansion of the list of elements, but to identify the very essential features of the latter, attributes such signs to the following: the legal consciousness is one of the forms of social consciousness and in combination with political, moral, philosophical, and other forms of consciousness reflects social being; contains concepts, representations, judgments, feelings, emotions, concepts, theories, programs; due to the socio-economic structure of a particular society, the level of development of its general culture; its ideological elements serve as the main elements of legal culture and legal education.

Worthy of note is the opinion of V. Syrovatsky , who asserts that the legal consciousness, perception or rejection of the value of law as the meaning of human existence - it is only social phenomena and when a person is able to understand them, explain the legal reality, ways to overcome conflicts as internal, in relation to itself a person as an individual, and external, when he is able to operate them, she goes ahead of the elemental processes of social life, at least pretends to take a conscious decision and settlement legal relationships. Accordingly, the author continues, in such a person rarely there are destructive feelings of disbelief in law, the possibility of effective overcoming internal contradictions of society through legal relations, the possibility of creating an effective legal system. Undoubtedly, the posture of person with her vital interests, aspirations to realize the meaning of life, legal destruction is not realized, and therefore it becomes clear philosophical thesis that what exactly a person gives meaning to the meaning, although this very reality appears to be a condition and a basis for a semantic relation.

Reflecting social reality, people learn and master current norms, evaluating them in a certain way, recognizing or refuting, and in one degree or another guided by them in real behavior. Being a direct source of activity and a regulator of human behavior, consciousness experiences the regulatory influence of objective factors, which includes the current law, the practice of its use and other phenomena of legal reality.

2. Deformation of legal consciousness: concept, types (forms)

The central component of justice is the value relation to the law as a whole, its norms and institutions, the practice of their application and their own legal behavior in terms of efficiency and equity of the main elements of legal regulation. It is this component that provides the creative influence of legal consciousness and in many ways the effectiveness of the legal regulation. Particularly relevant in this aspect is the question of the deformation of this phenomenon. After all, thoughtless adherence to the letter of the law without comprehension of their meaning and essence does not mean "normal" of the legal consciousness, on the contrary, in this case one can also speak of the presence of a certain deformation.

According to S. Gladkyi, "the concept of" norms of justice "is not sufficiently developed in theoretical jurisprudence (note that the recognition of normativity of legal consciousness is not identical to the recognition of the existence of its" norms ") leads to discussions about the problem of deformation (" abnormal ") of legal consciousness, since there are logical reasons consider the notion of "norm" and "deformation" of legal consciousness as paired categories of legal science “.

From the methodological point of view, in the opinion of this author, the arguments about the conditional nature of the concept of "normal sense of justice" are not meaningless, since quantitative and qualitative measurement of its parameters in a particular individual is rather problematic. The assessment of legal consciousness based on observing acts of objective behavior of a person is based on indirect evidence, which is an uncertain basis for generalizations. Consequently, S. Gladkyi summarizes quite reliable and formalized criteria for determining the "normality" of legal consciousness by traditional methods of legal science today.

Despite this, most scholars are actively turning to the concept of "deformation of justice" to denote distortions, distortions and persistent changes in the legal consciousness of the subject, which adversely affect his attitude to law. Consequently, the deformation of legal consciousness - is a stable negative (unfavorable) change in the sense of justice of the individual, social group, associated with a violation of the adequate perception of the legal sphere, the provision of non-legal rights. Deformation involves the formation of a false system of perception and evaluation of the qualities of law, giving it false (both negative and "supposedly" positive) characteristics, violation of awareness of the essence of law.

The deformation of legal consciousness must be distinguished from the subjective perception of law. right, as an objectively-subjective category, one way or another, has in its content the moment of sub 'native, which does not indicate a lack of legal consciousness of the subject. Only in the case when the element of subjective rights is hypertrophied in the mind of the subject and acquires a stable, permanently unchanging character, then one can speak of the transformation of the sense of justice with the sign "minus". Deformation of justice should not be associated with the wrongful, criminal behavior of the subject. It can also be observed in the behavior of a law-abiding citizen, for example, in the case of "disappointment" in the law, the false image of which was created in his mind, which could provoke unlawful conduct. Then one can speak of a transformation of justice with a minus sign. Deformation of justice should not be associated with the wrongful, criminal behavior of the subject. It can also be observed in the behavior of a law-abiding citizen, for example, in the case of "disappointment" in the law, the false image of which was created in his mind, which could provoke unlawful conduct.

In the context of a subjective approach, the deformation of legal consciousness is understood as: "the change in its state, in which certain rational and psychological representations, knowledge, judgment that reflect the legal reality and are expressed in a negative relation to legal attitudes" are formed "; "A social and legal phenomenon characterized by a change in the state of legal consciousness, in which certain ideas, ideas, views, knowledge, feelings and mood, experiences and emotions are formed in the bearers, which distort the reflection of legal validity and express a negative attitude to the existing law, legality and law and order »; " Distortion," destruction "of positive ideas, attitudes, feelings and beliefs"; " Defects, distortions of the legal consciousness, which give it a negative, anti-social orientation; "An extremely inadequate attitude (negative, positive) of people to law as a social value"; "Distortion of the form and content of legal guidance, skills and habits on institutional and non-institutional levels, reflected primarily in the activity and discursive practices of legal entities, as well as in the means of resolving conflict situations stereotyped among the general population" ; "A negative social phenomenon, for which there are such changes in its state that incorrectly reflect the real social and personal legal reality and express a negative attitude to the current system of law, law and order in general". But, as T. Marusyak rightly points out, the term in the narrow sense is identical to the deformation term that we use.

It is worth noting that the general understanding of the defects of legal consciousness is found in works of lawyers of the Soviet period. Thus, A. Dolgova considered a defect of legal consciousness as a failure or distortion of its main structural components - legal views, beliefs and attitudes, when any of these elements in the structure of legal consciousness in general is lacking or they are not formed enough, or although they are formed entirely but unsuccessfully or wrong, that is, their content is suffering: legal opinions, ideas and beliefs are contrary to current legislation.

Thus, the analysis of the existing experience of scientific research of the phenomenon of deformation of legal consciousness shows that in legal science has not yet developed a single approach to this phenomenon. In this regard, one must agree with S. Gladky, who rightly points out that in a worldview and methodological pluralism, such a situation in science is quite natural, as well as the logical existence of a wide range of possible evaluative reactions to the discovered individuals in the process of self-knowledge is not approved. society is the state of its own legal consciousness. However, summarizes the author's name, for any self-evaluation of such states, the objectified results of their scientific reflection are a valuable methodological tool of self-knowledge.

Thinking over the causes of the manifestations of deformation of legal consciousness, T. Marusyak forms two basic approaches to the allocation of norm and deformation of legal consciousness: 1) normative. According to this approach, signs of "normal" justice are actually constructed. The subjects of such design may be theorists - lawyers, scientists, lawyers, legislators. The concept of "correct" is contained in the theories, concepts of formal norms (legal acts). Exit beyond the "correct" will mean deformation. Principles of creating this "norm" is the submission of the subject of morality, tradition, justice, "sacred". From this point of view, for example, low indicators of public confidence to the court of law will be an indicator of a high deformation of justice; 2) statistically - sociological. This approach is based on the concept of E. Durkheim about the norm and pathology. According to his theory, the norm is what is widespread in society (such as a certain level of crime and suicide). That is, specific ideas about the offenses and practices of individuals that prevail in this society are considered normal for him, and deviation from the prevailing ideas (that is, extreme deviations from the content of the consciousness of the modal, in this sense of the individual) will be considered deformation. From this point of view, distrust of the courts is prevailing (hence normal, in Durkheim sense) characteristic of the people's legal conscience (or, more precisely, characteristic, modal - the most widespread - the sense of justice). And in the end, it proposes to combine these approaches to develop a unified approach to empirical research of the legal consciousness of Ukrainian society.

Emphasizing the acuteness of the problem of deformation of the consciousness of the population of our country, O. Pinsk points out that in this aspect our society was practically divided into three groups:

- the first person who does not trust the legislation at all, belongs to state authorities. In their opinion, normative legal acts are of no importance and have no legal force. This category of people does not consider it necessary to get acquainted with them and use it in their daily lives;
- The second part of the population is individuals who exceed the meaning of laws, placing them above all else. They have no idea and believe that all their problems can only be solved with the help of law;

- the last group of our society are people who are indifferent to the law, to the legislation of the country. They are all the same, what changes are taking place in society and the state, how public authorities operate, which laws are adopted.

A deformed attitude to the law can be differentiated , distinguishing the following forms: a critical, distrustful attitude to the right, doubts about the possibilities of the legal system to correct the shortcomings of the organization of society and human behavior (*legal skepticism*); recognition of the power of the legal system in society, thoughtless conquest of laws, based on ignorance of the latter, lack of interest in the system of law (*legal conformism*); a conscious denial of the role of law in society, a conscious violation of legal norms, a belief in own strength and the ability to overcome social legal relations, to impose their will on others, to dictate the rules of conduct itself, not to raise the rules of law adopted in modern society, to create their own rules (*legal cynicism*); law is seen as the subject of blind worship, the attribution of the law, the right of magic power (*legal fetishism*); an attitude based on ignorance or lack of knowledge of the rules of law, based on the idea that in a modern society one can live without problems, not knowing the law and not interested in them (*legal infantilism*); hyperbolization of the role of law in social transformations (legal idealism); total denial of any social value of law and its ability to be a means of regulating social relations (*legal nihilism*). Positive, adequate attitude to the right, tolerance of a person to the legal system of society is defined as *legal realism.*

T. Marusyak proposes the systematization and typology of deformations in terms of content and ways of its manifestation, which differ in the degree of distortion of the components of justice in the reflected legal reality, dominated by certain ideas, views, feelings, mood, setting, and distinguishes: legal idealism, legal nihilism, legal infantilism and dilettantism, moral and legal conformism, degeneration of legal consciousness, legal egocentrism and cynicism.

There is also a similar classification of the main types of deformation of legal consciousness to the following types: legal idealism (fetishism); legal infantilism; legal dilettantism; legal nihilism; "Rebirth" of justice "; legal demagogy.

Briefly, let's look at the most common types of deformation of consciousness separately. The most widespread form of deformation of legal consciousness is legal nihilism, as a socially dangerous, regressive and destructive phenomenon, as a kind of product of a low level of citizens' sense of consciousness, characterized by dismissive, skeptical perception of law, the diversity of forms of expression, combination with populism, and others like that. Legal nihilism can exist at the level of both ideology and practice. In the first case, we are talking about the development of such theories, which justify the idea that the law does not have an independent social value, as a result of which it is considered as a secondary phenomenon. Legal nihilism is realized at the practical level, being embodied in the wrongful conduct, but without conscious criminal intent. For example, O. Skakun defines legal nihilism as "a deformed state of legal consciousness of a

person, a society, a group characterized by conscious ignorance of the requirements of the law, the value of law, contemptuous attitude to legal principles and traditions, but excludes criminal intent". Neighborhood nihilism is defined as a certain form of social status, reflecting the political and national-historical features of society. O. Makarova relates to nihilism, as to "formed in the mass, group or individual consciousness of the dismissive attitude (explicit or implicit) to the right as a regulator of social relations, the denial of its importance in the socio-political life of the state, the rejection or ignoring of the orders of law » A similar view is expressed by V. Kraus, who considers nihilism as a social phenomenon and a position of a person who is in a phase of self-destruction, denying the present world and existing values, not recognizing any of them, but is not capable of imagining the possibilities for its improvement. In his opinion, most of the manifestations of nihilism are reduced to such basic forms: active or militant, extravert or passive, apathy or introverted.

By the tortuous moment of legal nihilism is a proudly disgusting, arrogant, condescendingly skeptical perception of law. There are many of its sides and faces - above all, it is a deliberate violation of laws and other normative acts, the substitution of legality of expediency, violation of human rights, especially those such as the right to life, honor, dignity, etc. Therefore, legal nihilism is considered not only as a legal category, but also as a socio-psychological phenomenon that arises as a result of evaluating the law or its individual norms by people, social groups or even the whole society. It should be noted that in legal ideology it is reflected in ideas and currents; in legal psychology - in different settings, stereotypes, disbelief in legal ideals; in legal practice is characterized by various anomalies of legal behavior or the same generally legal passivity.

The deformed legal worldview of a person who professes legal nihilism, notes V. Syrovatsky, leads to the formation of distorted legal sensations, whose interaction with the immediate components of the structure of legal consciousness has a negative impact, contributes to the deformation of legal consciousness. At the same time, the reasons for the emergence of nihilism, V. Syrovatsky notes that in the process of self-realization of personality in legal relations, one of the main preconditions for the choice of his lawful behavior is satisfaction, or, conversely, dissatisfaction with the way of life or the lack of opportunities to achieve the goals. To some extent, the assessment of the legal situation and the choice of the path of lawful behavior is a peculiar transition from one sphere of self-realization to another, but with insufficient positive internal contexts of the legal consciousness of a person (or several persons as a social group), this leads to distortions in the direction of self-development of a person (social group).

Thus, legal self-realization takes place in various spheres of social and legal life, and depending on their availability in the life of the person appear different forms of choice. Therefore, essentially, legal nihilism is a legal exclusion: it occurs as if it were a rejection of the right, when a person wants to do without him.

Specific content of the components of the state of legal consciousness, interpreted as legal nihilism, according to this author, dependent on the type of thinking. That is, legal nihilism means not only denial of law as a social value in a society, but also a careless attitude towards it, to the activities of state authorities and law enforcement agencies. V. Sirovatsky continues to have a special danger, which leads to the development of legal nihilism in a society, is an anti- legal practice, when law-enforcement and law enforcement bodies act in accordance with the principle of priority of expediency over law and law. This explains why the most developed phenomenon of legal nihilism is transformed into a deformation of the consciousness of the population in states with authoritarian or totalitarian regimes.

Summarizing the above, one can single out the main features of modern legal nihilism: it is emphasized-demonstrative, militant, cynically-aggressive ; mass, wide prevalence not only among society, but also in official state circles, legislative, executive, law enforcement echelons of power; variety of forms of manifestation, ability to adapt, survive in all situations; special degree of destruction and so on.

Legal cynicism is the most serious form of deformation of legal consciousness. Legal cynicism is destructive, shameless, with a clearly expressed dislike (hatred) of people, an absolute denial of law, a criminal and outright neglect of human legal culture and generally accepted rules, internal spiritual qualities that are guided by a person, disrespect for the rights and freedoms of citizens. In the field of morality, he manifests himself as a mocking amoralism that frankly neglects general moral standards.

In our opinion, the most harmful forms of legal cynicism are individual and public-state cynicism.

In the first case, it is a position of destructively oriented consciousness with pronounced misanthropic attitudes and criminal inclinations. In the courtroom often the phrase "Crime is committed with a special cynicism" is often heard. Subjects of legal cynicism are capable of committing crimes against a person, his life, health and dignity with "special cynicism" (the traditional formulation of the criminal codes of many states). In such crimes there is the desire of the perpetrator to humiliate, shame victim, destroy its human dignity.

State cynicism is an attribute of non-legal systems of the legist nature, where in a form that looks like the language of ordinary legal orders, the content that neglects the rights and freedoms of citizens is concentrated, deprives them of their ability to protect themselves from the infinite arbitrariness of state power. Legal cynicism is characterized not only by the level of social danger, but also by motivation. The cynical legal consciousness is based on a conscious denial of the law on the motives of profit, cruelty, greed and so on.

To individual cynicism is also the search for loopholes in the current legislation, the use of "telephone law" and other forms of ignoring social responsibility before the law.

One of the forms of legal anomaly is legal negativism. If legal nihilism is connected with the negation of the social value of law, then under legal negativism the subject understands the value of legal regulation for society, but for a number of reasons does not adhere to those or other legal prescriptions. Several subspecies of legal negativism are distinguished depending on the causes of unlawful actions. First, they may be due to the discrepancy in this particular case, the personal interests of the subject with public interests. Secondly, deliberate ignoring of legal norms is possible due to the observance of new legal ideas, not yet enshrined in normative legal acts. In the latter case, legal negativism becomes one of the forms of legal idealism.

Legal idealism is a form of deformation of justice, in which a person gives the right to certain standard qualities and properties that are capable, in the opinion of the subject, to make the right decision in any life situation. A subject suffering from legal idealism places too much hope on the right, believing that it is able to resolve all conflicts and contradictions on the basis of the principles of freedom, equality and justice, and ensure the construction of a welfare society. For example, Lagun points out that legal idealism involves exceeding the possibilities of law, romanticizes the legal phenomenon, gives it a halo of perfection, associates the people's aspirations to a good, peaceful and prosperous being. At the same time, in his opinion, the idea is formed, that in order to quickly overcome the shortcomings in state and social development, it is only necessary to adopt "good", correct, legal laws. When faced with the objective reality and understanding that law is not able to solve all problems in human life, to answer all the challenges of the outside world, in the mind of the subject there is the destruction of illusions, life principles, ideals. The ideal, intra-harmonized model of perception of the person of the environment is broken down. At the same time consciousness can sometimesinternally agreed model of perception of the person of the surrounding.

Consciousness can sometimes modify to a diametrically opposite. Man begins to deny any value of law, his ability to regulate public life, to ensure the peaceful coexistence of communities based on the principles of good-neighborliness and cooperation, rejects any social development concepts. The extreme form of legal idealism is legal fetishism. Under this form of deformation of justice, an idea of holiness and infallibility of law is formed. It is transformed from a social regulator into an object of peculiar awe and adoration, into a certain "idol", requiring fanatical devotion and blind worship, the rejection of certain vital goods and the development of personality. As a result, an adequate perception of legal ideas is lost, there is a calming of the legal essence and giving the legal form to non-legal phenomena. According to Lagun, the individual properties of legal fetishism at the present stage are manifested, in particular, in hypertrophic absolutism of the ideas of democracy, humanism, the concept of human rights, under the auspices of whose protection is grossly violated state sovereignty, undermined the cultural and moral foundations of society,The objects of world cultural heritage. Legal fetishism, like any idolatry, leads to the degeneration of the system of values of mankind.

Anti-values not only combat the values, they occupy the place of the latter, impose their positive qualities, give them their negative attributes and, as a consequence, seek to destroy them or localize into a kind of "ghetto" spiritual reserve. Legal infantilism is an intermediate state of legal consciousness. Legal infantilism is the immaturity and immunity of legal provisions in relation to new legal conditions, the lack of legal knowledge and attitudes. Subsequently, this sense of justice in a rather short time transforms into a different form, which depends on external factors and individual characteristics of the subject.

Legal demagoguery - a kind of deformation of the person's legal consciousness, manifested in the system of deception all sorts of attractive, but false promises of a legal nature; especially widespread during the elections, when all the means of "processing" of voters, including "black PR", as well as during the discussions of the constitution, laws, when regulatory legal acts of declarative nature are adopted, sounds unconstructive criticism of the content of the newly adopted law, offers are made cancel it, legislate against each other, etc. Under legal demagogy is meant a special type of social demagoguery, which involves socially dangerous, deliberate, external, spectacular influence of an individual (public associations) on feelings, knowledge, actions of people through the formation of their false, distorted perceptions of legal reality for the achievement of their selfish goals that are usually covered by motives for ensuring the interests of the population and the state.

The danger of legal demagoguery lies in the fact that the person guided by it assumes the existence of a certain value of law, realizes the existence of trust in the right of others, and for this reason uses it to attain his own selfish interests, covering his intentions with talks about public good. Legal dilettantism means free treatment of the right (superficial or inadequate interpretation of legal norms, lack of a systematic approach, etc.) or incorrect assessment of the legal situation caused by frivolous attitudes towards the law. This form can be particularly dangerous in the event of the spread of such approaches through the media. Legal populism is a form of deformation of legal consciousness, expressed in the subjective mood of the individual for external affectation, the glorification of his personality and results of activity, to emphasize the special, exceptional weight of his attitude to the cause, and the desire to strengthen his social and official status on this basis. The willingness and desire to "work for the public" are aimed at artificially gaining popularity of their own legal views, political, Pre-election program and thus provide support to the population, victory over the election, and superiority over political opponents.

Legal populism acts as a way of flirting with the people, speculating on its needs in order to acquire authority, fame, and personal wealth. The features of this policy of populism are sometimes observed in lawmaking, when laws are deliberately unfeasible or extremely unprofitable, enabling or gaining public support, or extinguishing mass discontent, or ensuring the implementation of a regular political campaign. Legal conformism is characterized by the orientation, the adjustment of the individual's activities to samples and patterns of behavior adopted in a particular society.

The reference book on the theory of state and law gives the following definition of legal conformism: the tendency of an individual to change his beliefs, values, and actions under the influence of the group in which the person is; the concept of adaptation, the passive acceptance of the existing order of things, the dominant views, the lack of position, the unprincipled and uncritical pursuit of any sample that has the greatest authority (views of the majority, traditions, etc.). In the legal sphere conformism is the desire to adapt to external circumstances and norms of law, subordination of its own behavior to the views and actions of the environment. The term "conformism" is usually referred to as the ability of an individual to submit to pressure groups, as a result of which he perceives and reproduces dominant thoughts and teachings in an effort to prevent conflict with a group.

"Rebirth" of legal consciousness is one of the most dangerous manifestations of the deformation of legal consciousness, in which it is transformed into its antagonistic form. The distortion of the cognitive and motivational spheres of the individual reaches such a maximum distortion of the level of legal ideals that fills the sense of justice with negative content. The idea of legal irresponsibility arises, substantiates and cultivates, which results in deliberate committing of crimes, the motives of which are, in particular, greed, revenge, contempt for others, neglect of the interests of society, etc.

Particular danger is the "rebirth" of legal consciousness resulting in organized crime and corruption, which cause significant damage to the process of implementing the principles of the rule of law, inviolability of fundamental human rights and freedoms, the establishment of a democratic, rule of law, raising the level of legal culture of the individual and society as a whole. The degenerate legal consciousness, apart from the socio-economic and political factors of the environment, is caused by a number of socio-psychological factors. This, first of all, low level of public justice of the population of the country, forming the general background - distorted views, installations, ideas. This is the total legal illiteracy of the population, which not only generates legal nihilism, but also leads to a complete distortion of the views and attitudes of individual members of society, pushing them to commit crimes and other offenses. Finally, the process of regeneration of legal consciousness is also influenced by the negative cultural and ethical factors of the environment, that is, the negative spiritual atmosphere.

Separate authors, along with the "rebirth of consciousness", suggest to allocate this kind of deformation of consciousness as " negative-legal radicalism". In the light of recent political and socio-legal events in the south and east of our state, scholars and legal scholars, it is extremely necessary to concentrate all their attention on the factors that determined only the theoretical possibility of such events, as correctly noted by M. Cherkas. And first and foremost, one should change the vector of research, analysis of individual, little-studied types of deformation of justice. citizens, in particular legal radicalism, in order to study the causes of its occurrence, the main features, forms of manifestation and ways to overcome Negative legal radicalism is characterized by a very negative essence.

However, in the opinion of the cited author, this form of deformation of justice is singularly allocated, since it is nothing more than a distortion of legal consciousness, which is expressed in an extremely contemptuous and extremely negative attitude to the law, law, and other legal values, and is manifested in decisive, fundamental unlawful actions The most significant feature that distinguishes this kind of deformation from others is an increased degree of social danger, which manifests itself in the formation and implementation of criminal plans by specific people.

Conclusions.

Legal consciousness in the scientific literature is regarded as: "a system of sensual and thought-provoking images of communicative-volitional orientation, through which there is a direct and indirect perception of legal reality - the relation to the current, past and desired law, to activities related to the right to legal phenomena and behavior of people in the field of law "; a set of legal opinions and senses that are normative and contain knowledge of both legal phenomena and their assessment from the point of view of class (or national) justice, as well as new legal requirements that reflect the economic and political needs and interests of social development ; views, ideas, thoughts, feelings, mood, expressing the understanding of the need to establish and operate a certain legal order in society.

Thus, the analysis of the existing experience of scientific research of the phenomenon of deformation of legal consciousness shows that in legal science has not yet developed a single approach to this phenomenon.

A variety of legal anomalies are legal anomalies in legal consciousness as a product of social relations, which are caused by a large number of factors of objective and subjective order, preconditions, reasons, etc., which deform a person's legal consciousness, which can lead to undesirable behaviors for society, deviating from law, general law, normal formation and development of social relations. Like anomalies in law, this kind of anomalies has a large number of manifestations, but also not as an offense, which has a completely different legal nature.

The main forms of deformation of legal consciousness are legal idealism, legal infantilism, legal dilettantism, "degeneration" of legal consciousness up to legal nihilism, and so on. However, each of the listed types of deformation has its own specificity.

Forms of deformation of legal consciousness can appear at the levels of legal psychology and legal ideology and can become a form of legal idealism, legal infantilism, legal dilettantism, "degeneration" of legal consciousness up to legal nihilism.

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SOCIAL AND LEGAL ASPECTS OF THE DEVELOPMENT OF CIVIL SOCIETY INSTITUTIONS

Collective monograph

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